

Financing Politics in Malaysia: Reforming the System

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Abstract

While debates about reforms of the financing of politics focus on money spent during federal and state elections, this study argues for a review of the financing of internal party elections. In Malaysia, the government proposed reforms of the financing of politics, but its focus was on only one issue, the introduction of a new law governing political parties. This article argues for the need to consider two additional points when this type of reform is proposed, namely: (1) institutional reforms of agencies responsible for monitoring the activities of parties and elections, to allow for greater autonomy of these institutions; and (2) measures to ensure internal party elections are conducted in a manner devoid of deep monetisation. The main reason for these additional proposals is that objectionable practices in the financing of party elections are being replicated in federal and state elections.

Keywords: Political Financing, Institutions, Legislation, Party Elections, Reforms

Not long after a general election in 2008 in Malaysia, public concerns emerged over the financing of political parties. In that epochal election, opposition parties secured unprecedented control of five state governments, which included two of the wealthiest states in the Malaysian federation. The opposition had achieved this unexpected feat even though an uneven playing field prevailed during federal and state elections. Parties in the ruling multi-party Barisan Nasional (BN, or National Front) coalition had always had access to considerable sums of money

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from a variety of sources, a factor that had undermined the conduct of fair electoral competition. However, after 2008, since both ruling and opposition-based parties were now beneficiaries of much funding from companies, this led to even greater monetisation of politics, with private funds seeping into the political arena in even larger quantum.

Following this general election, opposition parties have been reticent about remodelling the financing of politics. For this reason, campaigns to reform political financing have been driven by civil society, in an effort to institute public trust in political parties. However, the demand for reforms to staunch the flow of money into the political system by non-governmental organisations (NGOs) has not had much impact.

Reforms in the financing of politics became imperative in 2015 after a major scandal broke involving a government-owned enterprise named 1Malaysia Development Bhd (1MDB), a company under the jurisdiction of the federal government's Ministry of Finance. Public revelations about misappropriated money from 1MDB were linked to another controversy, involving RM2.6 billion¹ that had been channelled into the personal bank account of the sitting Prime Minister Najib Razak, who also served as the Minister of Finance. According to Najib, this money was from a foreign donor, given to him to finance the 2013 general elections. This scandal revealed serious abuse of this government-owned enterprise, with funds from it allegedly flowing into the political system and used during the general and state elections in 2013.² The 1MDB scandal also revealed the use of slush funds, as well as the covert funding of politicians by foreign individuals – and possibly also foreign governments. Funds from these sources were also believed to be used by Najib, as president of the United Malays National Organisation (UMNO), the leading party in the BN, to consolidate his position in the party, including through the buying of support.

These two controversies were particularly disconcerting because the monetisation of internal UMNO elections was by then an issue of much

1 In September 2017, the exchange rate between the US dollar and Malaysian ringgit was \$1=RM4.21.

2 The controversy surrounding 1MDB was described by the British-based *The Guardian* (28 July 2016) as 'the world's biggest financial scandal'. When the United States' Department of Justice released a report on 1MDB, it alleged that US\$3.5 billion had been misappropriated from this government-owned enterprise. For a discussion on this scandal's impact on Malaysian politics, see W. Case, 'Stress Testing Leadership in Malaysia: The 1MDB Scandal and Najib Tun Razak' (2017) 30(5) *The Pacific Review* 633.

concern. UMNO was seen as a party that only functioned well when its members were served by different forms of patronage, such as the award of important government-generated concessions, or rents, and appointments as directors of the multitude of companies owned by the federal and state governments.³ UMNO members were even reputed to be given money on a regular basis by party leaders to remain loyal to the party.⁴ Such concession-based politics had contributed to escalating corruption, allegations of serious conflicts-of-interest and the inability of a new breed of politicians to rise in the party hierarchy. Matters of this sort had been raised as major concerns since the 1980s, indicating the long and urgent need to promote transparency and accountability in the financing of parties. However, little had been done to stem such unproductive, even corrupt, political practices involving the abuse of money. Indeed, the scale of the problem, specifically in terms of the volume of funds involved, had evidently escalated during party elections. These practices of monetised politics had also come to be employed during federal and state elections.

UMNO had used a slush fund since the immediate post-colonial period, creating it to secure new funding sources, beyond the fees the party obtained from its largely rural membership. This slush fund was controlled by senior party leaders and remained a crucial source of funding for UMNO. Nearly five decades later, when Mahathir Mohamad resigned as UMNO president in 2003, he handed to his successor, Abdullah Ahmad Badawi, party assets of RM200 million in cash and RM1.2 billion in shares and property.⁵

It was, however, in 1981 that the scourge of monetised elections commenced in the form of vote-buying during UMNO's general assembly, comprising about a thousand members. By the early 1990s, the practice of vote-buying had filtered down to the grassroots, necessitating the use of an enormous volume of funds as UMNO claimed to have about

3 For an in-depth study of the companies, statutory bodies, sovereign wealth funds, public trust agencies and foundations owned by the federal government, see E.T. Gomez and others, *Minister of Finance Incorporated: Ownership and Control of Corporate Malaysia* (Basingstoke, Palgrave-Macmillan, 2017).

4 J. Funston, 'UMNO – From Hidup Melayu to Ketuanan Melayu' in B. Welsh (ed), *The End of UMNO?: Essays on Malaysia's Dominant Party* (Petaling Jaya, Strategic Information and Research Development Centre, 2016).

5 E.T. Gomez, 'Resisting the Fall: The Single Dominant Party, Policies and Elections in Malaysia' (2016) 46(4) *Journal of Contemporary Asia* 570.

three million members.⁶ As the problem of money politics escalated, Mahathir referred to it as a cancer that had permeated the body politic, creating a self-enriching patronage culture that was corroding party support.⁷ Yet, Mahathir's call for change went unheeded as UMNO's membership shifted decisively away from its rural base to business people, with politics serving as an avenue to secure easy access to government-generated rents.

A related longstanding concern has been the volume of funds distributed during UMNO elections which is reputedly more than the amount of money used during a general election. This allowed individual politicians with access to such funds greater capacity to ascend the hierarchy during party elections. The considerable abuse of money and government rents during party elections has contributed to serious factionalism. While factions are the norm in political parties anywhere, they are normally based on differing ideological or political viewpoints. In UMNO, factions are determined primarily by which political leaders have the most funds to distribute to the grassroots. This money-based factionalism has persistently threatened the existence of UMNO, with break-away parties formed by ex-leaders on three occasions since the late 1980s.⁸

The issues surrounding 1MDB and the Prime Minister's slush fund subsequently destabilised UMNO, contributing to serious intra-elite feuding that culminated in a formidable new opposition party led by Mahathir. Meanwhile, unacceptable characteristics of Malaysia's political finance regime continued to persist. These features included uncapped donations and expenditure and the fact that ruling parties of federal and state governments could benefit from abuse of the huge network of government-linked companies (GLCs) that constitute a substantial portion of the economy.⁹ These practices have undermined public confidence in the legitimacy of political leaders to govern, as well as their willingness to eradicate corruption.

This article reviews political financing based on the premise that in order to allow parties to function efficiently, access to money is important. However, political financing must be transparent, properly accounted

6 E.T. Gomez, 'Monetizing Politics: Financing Parties and Elections in Malaysia' (2012) 46(5) *Modern Asian Studies* 1370.

7 *ibid.*

8 E.T. Gomez, 'Electoral Funding of General, State and Party Elections in Malaysia' (1996) 26(1) *Journal of Contemporary Asia* 81.

9 Gomez and others (n 3).

for, disclosed publicly and subjected to effective regulatory and social oversight. The article provides a historical account of Malaysia's political landscape to obtain insights into the problems associated with the financing of politics during parliamentary and state elections, as well as during electoral campaigns within parties. The study then offers proposals involving political finance reforms. The study ends with a call for, among other things, greater public disclosure in the financing of politics and autonomous and effective enforcement by regulatory regimes.

Monetised elections in Malaysia

Offering solutions to problems of political financing necessitates an understanding of how money corrupts politics and impairs free and fair elections. While parties in Malaysia, specifically those constituting the BN, are able to raise and spend considerable amounts of money during general elections, only the candidates are responsible for submitting an account of their campaigns' income and expenditure. The volume of funds used during an election campaign as declared by a candidate is normally no reflection of the actual amount of money spent. This is because candidates seldom declare what their parties have spent on their campaigns during the election, indicating the need to promote transparency and accountability in political financing.

The principal laws relating to elections in Malaysia are embodied in Part VIII (arts 113-20, together with the Thirteenth Schedule) of the Federal Constitution of 1957. Articles 113 and 114 provide for the existence of an Election Commission for the purpose of conducting elections, keeping electoral rolls and reviewing the division of the country into constituencies. By ensuring that all citizens can elect a representative freely, and that all those who desire to stand as candidates can present themselves to the voting public unencumbered, the Commission is meant to create a level playing field.

Regulations regarding expenses during parliamentary and state elections are outlined in the Election Offences Act 1954, and cover types of expenses as well as the total amount. Candidates for a parliamentary seat are permitted election expenses up to a maximum of RM200,000 each, while the maximum amount allowed for a candidate contesting a state seat is RM100,000. No variation is permitted on the basis of the geographical size of the electoral district or other characteristics of the constituency, for example, whether it is urban or deeply rural. However, expenses are permitted in excess of the maximum sum allowed for

transport of electors in remote areas who have to cross the sea or a river to reach a polling station.¹⁰

Only expenditure incurred between the date of publication of the Notice of Election and the day of election is subject to these financial limitations. There is no duty on the candidate to disclose any income or expenditure outside this campaign period. There is no requirement of any monthly, yearly or periodical return once the statutorily-required one-off return on the proper form is filed within 31 days after the election. There is thus nothing to prevent a candidate from raising money or incurring considerable expense in the run-up to the election, nor does the law forbid successful candidates from spending unlimited sums on their supporters after the victory.¹¹ The Election Commission does not analyse, tabulate or publish returns of the candidates, but people interested in these reports can view them on request.¹²

Coercion in the form of treats or threats and bribes are prohibited by law, but these are common practices during elections. A common allegation during elections is that funds are used to rig votes, causing the expenditure during campaigns to far exceed the stipulated maximum. While complaints of such irregularities can be made to the Election Commission, most parties, particularly those in the opposition, tend to seek redress through the courts.

Political parties are governed by the Societies Act 1966, which also covers all non-political societies. The Act requires political parties to register and submit financial accounts to the Registrar of Societies, a body under the authority of the Ministry of Home Affairs. These accounts are not disclosed to the public and do not require parties to reveal their sources of funding. Nor does the law set limits on contributions and spending or bar the ownership of business enterprises by parties, and it provides for little transparency in a party's internal affairs. With minimal requirements for the disclosure of sources of party funding, the manner in which parties derive funds to finance their activities remains rather opaque.

10 See S.S. Faruqi, *Document of Destiny: The Constitution of the Federation of Malaysia* (Kuala Lumpur, Star Publications, 2008) 605-6 & 609-10 for an insightful discussion on this matter.

11 For a detailed discussion on this issue, see A.R. Rahman, *The Conduct of Election in Malaysia* (Kuala Lumpur, Berita Publishing, 1994) 7-8, 64-7 & 125-32.

12 S.S. Rachagan, *Law and the Electoral Process in Malaysia* (Kuala Lumpur, UM Press, 1993).

Within parties, growing forms of monetised elections have contributed to a persistent need for political leaders to be regularly privy to funds from different sources. This problem is particularly acute in UMNO, compelling government leaders to repeatedly critique members during the party's general assemblies of the debilitating impact of monetised politics. In 1985, the then UMNO president, Mahathir, spoke out strongly against the influence of money, citing as examples those who had distributed cash to members to secure support. One aspiring politician had spent RM600,000 in his bid to become a division chairman, while others had offered expenses-paid overseas trips in exchange for votes. Meanwhile, then UMNO Deputy President Musa Hitam expressed his fear that his party would soon become a 'get-rich-quick club'.¹³ Despite these criticisms by the UMNO leadership, the problem of deeply monetised elections continued to escalate. During the 1993 party election, allegations abounded that RM200-300 million had been spent by just one faction during a highly divisive campaign when the UMNO deputy presidency was contested. By 1995, one candidate reportedly had to spend about RM6 million to secure the post of division chairman, compelling Mahathir to propose an amendment in UMNO's constitution to ban vote-buying.¹⁴ Despite this, UMNO has not been able to adequately check serious escalation of the abuse of money during party elections. By 1996, money politics had become so divisive that during the run-up to the party election Mahathir gave this as his reason for banning campaigning for party posts.¹⁵

There were, however, debates by the turn of the century around the need to deal with growing monetisation of politics. These debates focused on core elements of political financing. Party representatives frequently cite financial management and fundraising processes as the easiest areas for abuse. It is extremely difficult for leaders to keep track of all the money flowing in and out of the party, particularly with offices and members spread across the country. Financial donors can also present problems for a party by demanding rewards in return for their support. Parties have approached this problem in different ways. Most parties agree that enhanced transparency of party finances limits opportunities

13 See Funston (n 4) for an in-depth account of UMNO's history, at a time when money first began to be abused in large volume during party elections.

14 'Let's Hope Graft will End: Mahathir' *New Straits Times* (20 June 1994). See also <<http://eresources.nlb.gov.sg/newspapers/digitised/issue/straitstimes19940620-1>>.

15 Funston (n 4).

for corruption. For example, all members should be allowed to review their party's financial records and ensure that there are adequate checks and balances within the electoral system. However, even such practices are difficult to implement. One prominent politician, a former leader of a component BN party commented:

The party members don't know and do not ask for information on who the donors are. As long as there's money why should they ask? The information is privy to top leaders because people who donate want to remain anonymous. Among party members, allegations of money politics are always there because if a candidate loses, they will accuse those who won as practising vote-buying. They never look into a mirror and evaluate themselves. In Malaysia, politicians do not fear a bad reputation for accepting donations from some specific sources. But donors do fear finding themselves involved in political scandals (that is why they want to be anonymous) because the government may use the information on donations against the opposing parties and the donors themselves.¹⁶

As mentioned, the practice of deeply monetised internal party elections also prevails in other leading parties in the BN. Two major component BN members, the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC), have a long history of deeply monetised party elections.¹⁷ Interestingly, problems involving the financing of campaigns during party elections have, as mentioned, also emerged among parties in the opposition. These problems are strikingly similar to those in UMNO, though this is not unexpected, as these parties include ex-UMNO leaders and members who had defected and established new parties. This issue is particularly true of PKR, led by ex-UMNO leaders, once a key faction within the ruling party.

Since the monetisation of elections has become a serious problem in parties, some of them have employed a variety of measures to instil ethical conduct among members, leaders and candidates and to punish those who engage in unethical behaviour. There is, however, much consensus among politicians that codes of conduct and written regulations are inadequate to check irregularities during party electoral campaigns.

16 Interview with a then senior leader of a leading party in the BN (18 February 2009).

17 For a review of party elections in the MCA and MIC, see E.T. Gomez, *Political Business: Corporate Involvement of Malaysian Political Parties* (Cairns, James Cook University, 1994).

Other preventative methods are required, including punitive measures as well as stringent enforcement avenues to check abuse of money during elections. If there is no threat of action by independent monitoring mechanisms against corrupt acts, such as bribery, vote buying and abuse of government machinery and resources during party elections, it is unlikely there will be a change of behaviour or mindsets about abusing money during elections. Party regulations, if any, will remain largely ignored and ineffective without proper, preferably outside, evaluation and monitoring.

While the practice of patronage by leaders to secure support is crucial before party elections, this can backfire on the party during federal and state elections. For example, warlords have prevented young UMNO members, including those who are well-educated and articulate, from ascending the party hierarchy as they are unwilling to relinquish party positions, such as branch and division leadership, for fear of losing access to concessions from the government.¹⁸ This has led to UMNO re-nominating parliamentarians and state assemblymen with tarnished records, in spite of the BN's constant rhetoric of the need to curb rent-seeking and corruption, undermining the party's organisational capacity to shift the electoral allegiances of voters. During the 2008 general election, UMNO grassroots bitterly complained about their inability to convince voters to support the BN because UMNO had re-nominated parliamentary candidates with severely blemished reputations, including those against whom serious allegations of corruption had been levelled. The re-nomination of party warlords has inevitably undermined public support for UMNO, a key factor in the persistent decline of support for the BN, most evident in 2008 when the ruling coalition lost control of five state governments and the popular vote in the peninsula-based constituencies.¹⁹ UMNO members were more careful about the practice of dissent in this form during the 2013 general election, reflected in the party's better performance despite the BN's loss of the popular vote.

Several political parties have announced their intention to implement broad internal party reforms, but the extent of their enforcement has

18 Interview with young UMNO party member in the state of Kedah during the 2013 May election campaign.

19 B. Welsh, 'Malaysia's Fallen Hero: UMNO's Weakening Political Legitimacy', in B. Welsh (ed), *The End of UMNO?: Essays on Malaysia's Dominant Party* (Petaling Jaya, Strategic Information and Research Development Centre, 2016).

not been encouraging or transparent. Examples of a party's general reform and anti-corruption activities include UMNO's creation of an independent disciplinary committee to investigate and punish corruption within the party. This committee has penalised several party officials for buying votes during party elections.²⁰ Although the committee has purportedly dealt with hundreds if not thousands of alleged cases of money politics and other breaches of party ethics, it has not issued a report on this matter to members. Another BN member, Parti Gerakan Malaysia (Gerakan), allows candidates vying party posts to appoint 'election observers' to check vote-buying during party elections.

Among opposition parties, the Islamic-based Parti Islam Se Malaysia (PAS) established an ombudsman council (or Hisbah system) to ensure compliance with ethical standards. There are now religious counsellors at all levels of the party who provide advice on ethics and serve as mentors to party members. All leaders are required under this system to declare their assets and there is a special committee to investigate violations. Members of the general public can submit a complaint about any party member to the Council.

Another major opposition party, the Democratic Action Party (DAP), once placed 'anti-corruption' at the top of its agenda and organised numerous forums to discuss legislative reforms. The party submitted recommendations to the Anti-Corruption Bill of 1997 and demanded greater transparency in party funding. It also required candidates to sign resignation letters for their seats in advance, in case they violated party principles, namely by switching parties.

These proposals to curb the monetisation of politics have proven to be ineffective, indicating that self-regulation has not served to check this problem. Crucially, too, even when some parties, such as PKR, have allowed for an independent assessment of their elections, this has not helped curb the use of money in its electoral process.

When Najib took office as Prime Minister in 2009, his stated primary objectives were to end the practices of patronage and rent-seeking.²¹ This was Najib's answer to a clear call from the electorate during the 2008 general election to reform the conduct of politics. Najib introduced a

20 See <<https://www.thestar.com.my/news/nation/2009/03/18/umno-ali-rustam-accepts-decision-but-will-appeal>> for a list of party members who were disciplined for using money to secure support.

21 Gomez (n 6).

slew of reform ideas, including on the financing of politics, as well as to reduce the state's presence in the economy, a mechanism to end selective patronage-based affirmative action that benefited primarily UMNO members at the expense of poor Malays. All three reform proposals were considered, the views of experts were sought and preliminary ideas were drawn up.²² However, the decision on affirmative action was reversed, the political financing reform plan was quietly shelved and the government stopped proposing privatisation as one of its core policy objectives. In all three cases, the core matter was that of protecting UMNO's economic interests. Najib had recognised the call for change from the electorate, but also had to respond to demands by UMNO members not to institute reforms that would undermine their vested economic interests, secured through selective patronage, when key policies such as affirmative action were being implemented. Moreover, money politics had become embedded in UMNO and reforms involving these policies would have badly stymied party leaders seeking to channel state-generated concessions to the grassroots. In a party mired in monetised politics and patronage, the only way a leader can continue to maintain support is through the practice of patronage.

Inevitably, the volume of money employed in general and state elections has increased, as seen most clearly in the 2013 general election.²³ Both the BN and opposition coalitions now solicit money from businesses. Since it is now possible that the opposition might secure power at the federal level – they control three state governments – businesses hedge their bets by supporting both coalitions. The opposition also allege that in order to secure the electoral support of the poor, the BN introduced a cash transfer policy called Bantuan Rakyat 1Malaysia (1Malaysia Citizen Support, or BR1M). This policy helped the BN win seats in deeply divided parliamentary and state constituencies in 2013.²⁴ UMNO leaders also employ this liberal distribution of money to members who are poor. In 2015, an UMNO Senator admitted giving money to members during the party's annual general assembly, after photos of her doing so spread on the Internet. She defended the cash handout as her attempt

22 *ibid.*

23 M.L. Weiss, 'Payoffs, Parties, or Policies: "Money Politics" and Electoral Authoritarian Resilience' (2016) 48(1) *Critical Asian Studies* 77.

24 J. Saravanamuttu, *Power Sharing in a Divided Nation: Mediated Communalism and New Politics in Six Decades of Malaysia's Elections* (Singapore, Institute of Southeast Asian Studies, 2016).

to ‘share her fortune with the less fortunate’ members of her rural constituency.²⁵

In 2015, following public revelations about misappropriated money from 1MDB, and Najib’s subsequent admission that RM2.6 billion had been channelled into his personal bank account, it was revealed that once a month, each of the 191 UMNO division chairmen received RM50,000 for ‘expenses’ from the party president. This meant that a total of RM114.6 million was annually distributed to the division chiefs. Najib justified this practice by arguing that this form of fund flow was similarly employed by his predecessors, Abdullah and Mahathir, when they served as prime minister. According to Najib:

I never asked him (Abdullah) about political funding for the party all those six years I was his deputy. How he got the money, who gave the money were all under his discretion.... We never discussed such matters in the party supreme council, let alone openly. We only wanted to know that things were going properly all the way to the elections (quoted in Asia Sentinel 3 March 2016).²⁶

Following serious criticisms of the flow of funds into his personal account, Najib instituted a National Consultative Committee on Political Financing to offer reform suggestions.²⁷ However, NGOs derided Najib’s mandate to the Committee to advise him only on the tenets of a new law.

25 ‘Caught on Camera Handing Out Cash, UMNO Senator Says Just “Sharing Fortune”’, *The Malay Mail* (Petaling Jaya, 15 December 2015) <<https://www.malaymail.com/news/malaysia/2015/12/15/caught-on-camera-handing-out-cash-umno-senator-says-just-sharing-fortune/1023587>>.

26 See <<https://www.asiasentinel.com/politics/power-najibs-money-and-malaysias-corrupt-system/>> accessed 21 February 2018.

27 A task force comprising the Attorney General, the Inspector General of Police, the Governor of Bank Negara (the central bank) and the Director of the Malaysian Anti-Corruption Commission had begun investigation into the 1MDB scandal. However, before it was able to finish its work, Najib removed the Attorney General on the grounds that he was sick and could not continue to work. The Public Accounts Committee (PAC) established to review the 1MDB controversy was then basically paralysed when Najib appointed its chairman to the cabinet. A new PAC chairman, friendly to Najib, was appointed and he promptly declared that Najib had done nothing wrong. Meanwhile, Bank Negara submitted a report that action be taken against Najib, specifically for the funds that had flowed into his personal account. However, the new Attorney-General dismissed the Bank’s recommendation that action be taken, claiming that nothing in the report showed that Najib had done any wrong. For an account of this episode, see <<https://www.cnbc.com/2015/10/08/malaysia-attorney-general-no-offences-by-1mdb-officials-in-central-bank-report.html>>.

The Committee was not to review institutional reforms to enforce these laws. About 70 NGOs, led by a group of prominent ex-civil servants, later submitted to Najib a comprehensive proposal on political financing reform. The proposal covered the regulatory and legal framework of political financing, autonomy and enforcement power for institutions and regulation of both general election campaigns as well as party elections. Nothing came of these proposals as the government did not respond to them.

In September 2016, when the Cabinet Committee released its report, its proposals resembled those by the NGOs, but with three fundamental differences. The Committee proposed removing caps on funds given to, and spent by, parties, legitimising the huge inflow of money into the system. It did not include a revised institutional framework to empower the EC and related agencies, a crucial change to guarantee that the opposition's donors would not be unfairly targeted. There was also no discussion about checking the abuse of money during party elections. The opposition opposed these proposals but did not offer an alternative plan. Although the BN parties, including UMNO, publicly endorsed the proposed political funding reforms by the Committee, nearly a year after the release of the report, a draft law had still not been tabled in parliament for debate.²⁸

What is clear is that the reforms proposed by the Cabinet Committee hardly dealt with the issues that needed to be tackled to curb the widespread abuse of money in the political system. Indeed, the proposals appeared to legitimise the use of an unlimited amount of money in politics, a proposal that would be of much benefit to UMNO. So, what reforms are required in Malaysia, to ensure fairness in the electoral process?

The reforms needed

Figure 1 outlines a three-pronged approach to strengthen transparent and accountable financing of Malaysian politics. This approach requires, first, that the relevant laws are reviewed to provide a framework for sound regulation of elections involving political parties. Second, the relevant oversight institutions must have sufficient autonomy and be empowered to monitor and enforce the revised political funding

28 N. Firdaws, 'Political Funding Reforms Get Thumbs Up from UMNO, BN', *Free Malaysia Today* (30 September 2016).

framework. Institutional reforms are imperative as much power is concentrated in the dominant party, UMNO. Institutional reforms would, by necessity, involve devolution of power to agencies responsible for oversight of the running of parties and the conduct of parliamentary and state elections. Third, there is a need to monitor internal party elections that are driven by money-based factionalism, rent-seeking and patronage. The abuse of money and other concessions by candidates to acquire support to ascend the party hierarchy is undermining the integrity of political parties.

Figure 1. Three-pronged reform approach

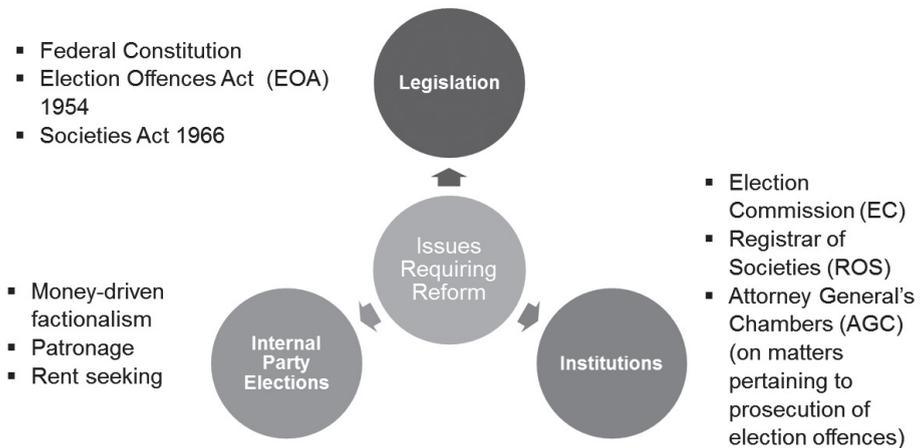


Table 1 indicates the need for new legislation governing only political parties, for example, a Political Parties Act that provides adequate regulation for the oversight of political financing regulations. Also listed are other core aspects of the new Act that would have to be introduced to curb deep monetisation of elections. Table 1 further indicates the need for a single, leading oversight body to monitor political parties as well as elections, including those within parties, namely a reformed Election Commission. These oversight duties are now divided between the Election Commission and other government agencies, and that has proved ineffective. The third segment of Table 1 provides further information about legislative and institutional reforms to create a level playing field during elections.

Table 1. Overview of reform recommendations

Enact a Political Parties Act to:	Strengthen the Election Commission to:	Create equitable access to funding to:
<ol style="list-style-type: none"> 1. Ban secret funds 2. Ban foreign funds 3. Set contribution and expenditure limits 4. Strengthen reporting requirements 5. Enhance public disclosure 6. Introduce guidelines for caretaker government 7. Regulate the financing of party elections 	<ol style="list-style-type: none"> 1. Protect its autonomy and impartiality 2. Register and supervise political parties 3. Strengthen monitoring and enforcement capabilities 4. Enhance independence of prosecution of election offences 	<ol style="list-style-type: none"> 1. Regulate private funding of politics 2. Regulate party ownership of business 3. Balance access to public funding 4. Strengthen public disclosure 5. Prevent victimisation of donors to opposition parties

Legislative reforms

The primary objective of reform of the proposed legislation is to strengthen transparency and accountability in the financing of politics. While there are suitable laws overseeing the conduct of federal and state elections, they offer inadequate provisions to ensure disclosure of the sources of funds, nor is there a list provided of permissible and non-permissible donors. The relevant laws are silent on the funding of internal party elections.

The existing Election Offences Act 1954 merits review of its rules on access to funding, limits on contributions, expenditure, disclosure and reporting. This is because this Act does not restrict how much parties can receive from individuals, corporations and politically-linked third-party donors, nor is it mandatory to reveal the identity of donors. There are expenditure limits on candidates standing for election but only during the official campaign period. There are no spending limits on expenses incurred by a party, whether directly or indirectly for the benefit of its candidates. There are no spending restrictions on the quantum of money spent outside the election period.

A key issue requiring reform involves disclosures. Reporting requirements and public disclosure of political financing and spending are minimal. Candidates must submit financial statements detailing their

income and spending during the election campaign period but are not obliged to account for their expenditure outside the campaign period. Existing reporting requirements are extremely basic and not subject to much oversight. Public disclosure requirements remain weak.

One fundamental new provision to ensure parties have equitable access to funds is that they are privy to public financing. Public financing of politics in some form or the other is a growing practice worldwide. About 75% of countries now have a provision for government funding of political parties.²⁹ The issue of public funding of parties during federal and state elections, as well as to help them run their party machinery and activities, is imperative to ensure a well-functioning political system. For example, financial support for parties during general elections is crucial because of the growing cost of political campaigning and the increasing scarcity of resources for it. Another reason for public funding of politics is that it helps reduce financial inequalities across parties, allowing them to compete on a minimally equal footing. This provision will enhance equality of chances for parties and thus fairer political competition, while also limiting the potentially disruptive role of powerful monied interests in the political system. Public financing of elections, however, requires adequate regulations and monitoring to ensure there is little or no abuse of such support. These regulations should include provisions to enable parties or individuals enter the electoral process solely for the purpose of contesting, even though they lack sufficient support or credibility to do so. However, private contributions have to be provided in relatively small amounts.

The primary mechanism introduced to curb the influence of private interests over the political system is to set limits on the volume of donations that a party or politician can accept from an individual or company. Two basic approaches to address this concern, apart from external control and transparency efforts, are a public law that restricts the permissible amount of donations and by imposing certain conditions on the qualification of donors. Limitations on the amount of private contributions may consist of a maximum threshold on the amount of money that may be accepted from a single source, although different ceilings may apply for different types of donors, for example, from individuals and companies. Restrictions may also consist of a limit on

29 I. van Biezen and P. Kopecky, 'The State and the Parties: Public Funding, Public Regulation and Rent-Seeking in Contemporary Democracies' (2007) 13(2) *Party Politics* 235.

the total sum of acceptable private contributions. Different thresholds may exist for different types of party activity such as routine operational costs and parliamentary or state elections.³⁰

Regulations on the qualification of donors can take two basic forms. First, impermissible donors, that is, those excluded from making financial contributions to parties altogether or whose donations are strictly limited. A second approach, a positive list of permissible donors, entails a potentially more restrictive approach, as no donations may be accepted from a person or entity not included on the list.³¹ This approach prohibits donations from certain groups and individuals, usually foreign nationals. The most principled objection to foreign donations to parties is that they interfere with the autonomy and sovereignty of domestic politics. About half the countries in the world partially or completely ban contributions from foreign nationals; these include the United States, Canada, Britain, Germany, France, India and Japan.³²

Given the wide prevalence of secret funds held by politicians, this practice should be deemed illegal. This appears to be a common practice among leaders of all parties, with no requirements on politicians to declare the source of these funds. Transparency is required through legislation to ban this practice, a key lesson that emerged when it was disclosed that Prime Minister Najib operated such an account without the knowledge of any other politician. In spite of this, there appears to be no political will among most Malaysian politicians to ban the issue of slush funds.

Effective public disclosure requires, first, that candidates and parties provide details of receipts and expenditures and, second, that campaign and party funding reports are available for public scrutiny. Public disclosure allows the public to decide what to do with the information disclosed. Disclosure is generally accepted as more neutral than other restraint strategies. A major benefit of effective disclosure is that the media

30 I. van Biezen, 'Political Parties as Public Utilities' (2004) 10(6) *Party Politics* 701.

31 *ibid.*

32 In Britain, the Political Parties, Elections and Referendum Act stipulates bans on foreign funding, while in the United States, foreign residents (although not permanent residents), are not allowed to contribute financially to federal and state political contests, see I. Van Biezen, *Political Parties in New Democracies: Party Organization in Southern and East-Central Europe* (Basingstoke, Palgrave-Macmillan, 2003) 27. However, surrogate donors or organisations in the United States serving as covers for foreign funders have circumvented this ban, see USAID, *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies* (Washington, USAID, 2003).

and civil society are empowered to 'follow the money', thereby keeping a check on politicians. The logic is that openness is the antidote to the influence of big money and to the secrecy that enables illicit funding or unsavoury donations.³³

An issue of primary importance is legislation to limit campaign and party finance contributions. This involves setting legal limits on the size of each donation, with one set of criteria for individuals and another set for corporations, while in both cases the list of persons who qualify as donors must be clearly delineated. Private companies would, of course, be allowed to contribute more than private individuals. Contribution limits serve as the best mechanism to ensure private individuals and firms have little capacity to influence election outcomes or public policy if the candidate or party supported secures control of government. However, a major loophole regarding contribution limits is that they can be circumvented by breaking donations into smaller amounts, called 'bundling', or by donating in the names of others.³⁴ Contribution limits also encourage wealthy candidates to self-finance their own campaigns. Another issue of concern is that a loan can be given by an individual or company to a party or candidate that is, by definition, not a donation. This loan can remain unpaid for an indefinite period.

Under current legislation, donors in Malaysia, whether corporate or individual, have no duty to disclose donations to the Election Commission or to the public. Their tax returns may, however, include this information, in order to obtain a deduction but tax returns are not open for scrutiny by the Election Commission or the public. The financial patronage of parties by government linked companies (GLCs) is wholly disregarded by the law though these companies reputedly channel funds to politicians.³⁵ A large number of statutory bodies in business, as well

33 US Agency for International Development (USAID) *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies* (Washington, USAID Technical Publication Series, 2003).

34 *ibid.*

35 At the October 2009 UMNO general assembly, one delegate was quoted in the press as stating: 'Many GLCs are sending tithe money to the Prime Minister and Deputy Prime Minister's constituencies and ignoring other areas that are poor and really need help'. According to this press report, another UMNO delegate went on to accuse the 'directors of GLCs of "tidur sebantal" (sharing the same bed) with the Opposition', further quoting him as stating: 'There should be good links between UMNO and the GLCs and there should be undivided loyalty of GLC board of directors for UMNO'. See the report 'UMNO delegates hit out at GLCs' *The Star* (Petaling Jaya, 16 October 2009) <<https://www.thestar.com.my/news/nation/2009/10/16/umno-delegates-hit-out-at-glcs>>.

as privatised businesses, although under majority ownership by the government, including public utility providers, banks and construction and property developers, are reputedly a source of funds for UMNO leaders.^{36,37} Any company in which the government has a financial stake, or over which it has administrative control, should not donate funds to a political party or candidate.

A balance must be achieved in disclosure laws between protecting privacy while providing for donor identity. Provisions to achieve this balance could include requiring donors to be identified by full name, address and occupation, but only to the Election Commission. Safeguards on the privacy of this personal information could involve blocking out all information except name and amount and banning politicians or the government of the day from using the donor list to intimidate those who fund the opposition. Additionally, disclosed information must be available to the public in a timely manner. In general, public disclosure should occur before polling day as knowledge about financial backers may sway opinions and votes. During the non-election period, parties must be required to publish donations in a regular manner, that is, quarterly, while weekly, even daily, disclosure should be required during election periods.

Expenditure limits can either restrict the total amount of funding a party or candidate may spend, or they can limit the amount spent in particular ways and on particular activities. This means that some forms of expenditure must be banned altogether. These limits may consist of an absolute sum per candidate or party.³⁸ Expenditure limits are reportedly more popular than contribution limits.³⁹ A cap is placed

36 Gomez and others (n 3).

37 A recent study of the GLCs noted that these companies had been subjected to important reforms to inspire confidence in the market that they function as well-managed enterprises. The GLCs, after all, constitute about 32% of the total marketisation of companies listed on the domestic stock exchange. GLCs also have a huge presence in the economies of the 13 state governments in the federation. This study further pointed out that the GLC reforms had led to the removal of UMNO members from these firms' board of directors. UMNO members also no longer figure as owners of big businesses. The consequence of the reforms within the GLCs is that it enhanced the influence of the Minister of Finance over these firms. Prime Minister Najib, as mentioned, also serves as the Minister of Finance. This has led to further intra-UMNO contestation over how government resources were being employed. See Gomez and others (n 3) for an in-depth discussion of the GLCs.

38 M. Hofnung, 'Financing Internal Party Races in Non-Majoritarian Political Systems: Lessons from the Israeli Experience' (2006) 5(4) *Election Law Journal* 372.

39 USAID (n 27).

on either the gross amount of expenditures by each candidate or party or, alternatively, the candidate’s or party’s expenditure per voter.⁴⁰ The intent is to restrain the cost of political campaigns and establish an even playing field that limits the influence of any party or candidate. Limiting the high costs of campaigns is assumed to reduce the demand for deep-pocketed donors.

Institutional reforms

Figure 2 lists the main institutions that require reforms, the core issues that have to be addressed, and why changes are necessary. The primary aim of these reforms is to ensure that these institutions have autonomy from the executive arm of government, specifically the prime minister, to monitor elections and the activities of political parties. The three major institutions that are involved in debates about the monitoring of parties and their financing are the Election Commission (EC), the Registrar of Societies (ROS) and the Attorney General’s Chambers. Only the Attorney General’s Chambers can prosecute those who violate the electoral-based laws, but this institution lacks the capacity to monitor compliance with political finance regulations. The appointment of the Attorney General by the King, on the advice of the Prime Minister, has also been shrouded in controversy.

Figure 2. Overview of institutional reforms

Institutions	Issues	Comments
 Election Commission	High-level Appointments	Impartiality in high-level appointments questioned: <ul style="list-style-type: none"> • In practice, PM exerts high influence over the appointment of EC members. • ROS is part of the executive branch controlled by the incumbent
 Registrar of Societies	Autonomy and Impartiality	
 Attorney General’s Chamber	Monitoring Capabilities	Absence of independent decision-making: <ul style="list-style-type: none"> • EC is seen as a government agency “managing elections”, rendering it subservient to incumbent government • ROS is under the ambit of Home Ministry • Attorney General’s Chamber’s decision to prosecute is under political interference
	Enforcement Capabilities	
	Prosecution of Election Offences	Insufficient monitoring and enforcement capacity: <ul style="list-style-type: none"> • Both EC and ROS do not have sufficient capacity to monitor compliance with political finance regulations as they are not empowered with investigative power to carry out independent investigations and audits

40 *ibid.*

The EC is under the direct control of the King, while the Ministry of Home Affairs has oversight of the running of the ROS, the government agency that has oversight of all political parties. The Federal Constitution has to be amended to ensure the independence and impartiality of the EC. This is because the Prime Minister exerts high influence over the appointment of the EC members, compromising this institution's autonomy and impartiality. Under the Societies Act 1966, the independence and impartiality of the ROS has to be reviewed, as this institution is responsible for the registration and supervision of conduct and financing of political parties, including financing of party elections. The Prime Minister, who is responsible for the appointment of the Minister of Home Affairs, traditionally tends to select a highly trusted political ally for this post. On a number of occasions in the past, the Prime Minister has concurrently served as Minister of Home Affairs.

These structural conditions of Malaysia's single dominant party state constrain the independent functioning of these oversight institutions. In this context, five pertinent issues require immediate action, namely: impartial appointment to high-level positions; autonomous and impartial enforcement; monitoring capabilities; enforcement capabilities; and prosecution of election offences. Additionally, political parties have to be registered under EC, instead of the ROS, while there is a need for the creation of an Office of Public Prosecutors (OPP) to deal with parties and politicians who violate the law. The Attorney General's Chambers role should be limited to serving as the government's legal advisor.

This new institution, the OPP, is imperative, because the EC and ROS have little regulatory capacity to act independently against parties who violate electoral and institutional regulations. The EC, in particular, appears unable to act as an autonomous institution, as its proposals and recommendations are subject to review by the Prime Minister before they are tabled in Parliament. Moreover, an amendment to Section 9A of the Elections Act 1958 further reduced checks-and-balances by the judicial branch, rendering the EC a government agency responsible merely for 'managing elections'.⁴¹

However, the EC retains considerable discretion and initiative, and its performance can have a significant impact on public confidence in the electoral system. The EC must satisfactorily fulfil two dimensions of performance, that is, impartiality and competence in carrying out

41 H.H. Lim, 'Making the System Work: The Election Commission', in M. Puthuchear and N. Othman (eds), *Elections and Democracy in Malaysia* (Bangi, Universiti Kebangsaan Malaysia Press, 2005).

its functions, if it is to inspire confidence in the electorate. However, both the competence and the impartiality of the EC have been publicly questioned. Some of the more serious expressions of concern include complaints about the EC's preparation of accurate and clean electoral rolls and the manner in which parliamentary and state constituencies are re-delineated.

To enhance the independence and integrity of the EC, the key reforms required include that Election Commissioners should have a six-year term with the option for extension of a second term. These commissioners cannot be removed, except in accordance with the procedure as prescribed by the Federal Constitution for the removal of Federal Court Judges.⁴² The rationale for these provisions is that this will allow the commissioners to see through a minimum of one full election cycle.

To ensure that the EC is held accountable for the way it fulfils its duties, the commissioners must come under the regular scrutiny of a Parliamentary Select Committee (PSC), under the leadership of a member of the opposition. The PSC will receive reports submitted by the EC on an annual basis and after any state or federal elections. When the EC carries out inquiries into improvements to be made to the electoral system and processes, all changes will be subjected to review by the PSC before being brought to Parliament for ratification. A similar process has to be instituted in the 13 state assemblies. The debates on constituency re-delineation exercises at the PSC, based on the EC's recommendations, should be made open to the public. To further ensure its independent running, the EC should submit its expenditure reports to the PSC.

Since the ROS falls under the ambit of the Ministry of Home Affairs, this renders it subservient to the executive. The ROS's duties include registering and, when necessary, de-registering, parties, and acting against them when they fail to conform with the regulations overseeing their activities under the Societies Act. Allegations abound that there is a high abuse of this authority by the ROS, with applications by people to establish parties aligned to or partial to the BN approved in unholy haste. For example, the application by Parti Sosialis Malaysia (PSM) to be registered as a political party was a long-drawn matter which required intervention by the court. PSM was allowed to register as a political party in 2008, ten years after submitting its application. On the other hand, a new party, Makkal Sakti, formed in early 2009 and espousing

42 See Federal Constitution, art 125 which deals with this issue.

support for BN, obtained its registration from the ROS on 11 May 2009, a few months after its formation.⁴³

Like the EC, the ROS does not have sufficient capacity to monitor compliance of political finance regulations as they are not empowered with investigative power to carry out independent investigations and audits. The EC and ROS have little regulatory capacity to act independently against parties violating electoral regulations as this is under the sole jurisdiction of the Attorney General. The duties of the ROS, involving monitoring political parties, should come under the jurisdiction of the EC.

Since the Attorney General's Chambers plays the role of public prosecutor, the Attorney General is not insulated from accusations of political interference when prosecuting perpetrators of election offences. Major reforms are required here to ensure that the Attorney General's Chambers functions only as a legal advisor to the government and as a legal draftsman. The primary role of the Attorney General's Chambers will be to advise the government on legal matters and aspects of public policies, as well as draft legislation. The Attorney General will also cease to exercise the powers of prosecution by statute or convention. Prosecution powers will be vested solely with the Public Prosecutor or Director of Public Prosecutions, who will exercise such powers independently of the Attorney General. The Public Prosecutor will be bound by the principle that any decision to prosecute should be made by him alone, independent of political consideration. The Public Prosecutor will enjoy security of tenure similar to that of a judge and he or she cannot be summarily removed by the government.

The rationale for the creation of the OPP and the appointment of an independent Public Prosecutor is to ensure the independence of the prosecution's decision-making function. This reform will reduce, if not eliminate, inappropriate political control, direction and influence. The reforms would entail re-defining the functions of the Attorney General as stipulated in the Federal Constitution and establishing a new and separate institution, the OPP. The appointment of the Attorney General and Public Prosecutor will be done by an independent commission. Those appointed as the Attorney General or Public Prosecutor, like a judge, cannot be removed, except in accordance with the procedure

43 See <<https://www.thestar.com.my/news/nation/2009/05/18/ros-gives-green-light-to-makkal-sakthi-party/>> accessed 8 February 2018.

as prescribed by the Federal Constitution for the removal of Federal Court Judges.⁴⁴

Internal party reforms

All political parties are required under the Societies Act to elect office bearers, hold annual meetings and keep audited accounts for their members. However, there are no requirements for these parties to submit audited accounts, or to disclose the sources and amounts of donations received before, during or after the election period. Parties must be required by law to prepare, submit and disclose their annual statements of income and expenditure and be open about their funding sources and the volume of their revenues and donations. These stipulations should apply to members running to secure posts during a party election. There must be a public right of inspection of the accounts of all political parties.

Current regulations under the Societies Act that oversee the running of political parties do not contain provisions on contribution and expenditure caps, or public disclosure, nor are there any reporting requirements. For this reason, the volume of funds distributed during party elections often exceeds that used during general elections. It is typically in the form of vote-buying, through lavish meals and gifts, cash handouts and economic concessions. This drives money-based factionalism where electoral victory is based on one's ability to provide contracts, rather than policy ideas and leadership capacity. Candidates consistently spend huge amounts of money to win party elections to secure a strong position to be appointed to key positions in the federal and state cabinets or in GLCs. In spite of these problems, there is little oversight of election spending as internal party contests are governed by a party's constitution.

Since current laws in Malaysia do not regulate the financing of internal party elections, internal practices to curb monetised elections within the party include codes of conduct, financial audits, independent disciplinary committees, training and ethical education programmes, monitoring and evaluation procedures and term limits for party leaders. Moreover, the financial reports of parties and candidates are not regularly audited or verified by independent auditors, further suggesting the low veracity of the reports.

44 This, as mentioned in Firdaws (n 28), will be in accordance with Article 125 of the Federal Constitution.

Political parties should be required to submit annual financial reports covering both sources of income and expenditure outside election campaign periods. After an internal election, parties must compile audited financial reports prepared by those contesting for posts and submit them to the EC, the institution that should be responsible for overseeing their activities. Contribution caps of the sort set for national elections should be applied to party elections. Reporting and disclosure requirements (election and post-election) of national elections should be similarly applied to party elections.

These reforms are imperative as weak public disclosure and restricted public access requirements undermine the trustworthiness of the reports presented by parties. During party elections, candidates are currently required to submit a financial statement covering income and expenditure after the campaign period. One concern here, however, is that this provides insufficient insight to account for income and expenditure outside the election period. History has indicated that the most acute forms of abuse of money to mobilise the support of the grassroots in fact occur in the run-up to an election.

The positive effects of internal party reform go beyond strengthening the political party system and ensuring fair electoral competition. Party practices and conduct can shape the behaviour of a country's leaders and legislators, as most of them start their careers in the party. Anti-corruption indoctrination at the party level has national repercussions by helping build political will to tackle corruption. Through enhanced democracy, accountability and transparency within party structures and in decision-making processes, the election of leaders will be based on merit. Accountable and transparent party fund management will help ensure that politicians act in the interest of the constituents and ideologies they profess to represent.

Conclusion

What is interesting about the Malaysian case is that suggestions to reform the financing of politics have come from the ruling BN, albeit after its leader, Najib, was implicated in a major controversy when it was revealed that an enormous volume of funds had flowed into his bank account, money which he claimed was later distributed to party members. These reforms have reportedly been prepared by people outside of politics, although led by a non-UMNO cabinet member. Interestingly, however, these reforms can be effectively used to serve as a tool to entrench UMNO's dominance of the political system, mainly because they do

not entail any devolution of power to oversight agencies to allow them to act with favour. For this reason, the opposition has been, justifiably, reluctant to endorse the government-proposed reforms. However, since the opposition is now also privy to substantial funds from the private sector, it has not proposed an alternative set of reforms.

In settings where the political financing regime systematically advantages the incumbent against challengers, changes to political financing can invariably affect the electoral or organisational agendas of one side or the other. For instance, pursuing reforms that seek to level the playing field between well-resourced candidates and under-resourced ones, or promoting more transparency in donations and regulations, are common goals of political finance reform. But the even-handed application of such reforms would involve fundamental changes to the ways in which incumbents hold power, and possibly lessen their chances of holding on to power. In this regard, the key actors who have acted to proposed holistic reforms have not attempted to introduce institutional reforms, allowing for the autonomy of oversight agencies to act without favour. Since these reforms have been seen by all parties as being detrimental to their interests, both financially and also because it calls for close monitoring of internal party elections, members of civil society have been the primary advocates of meaningful change. These reforms are imperative to ensure a well-functioning political system, as well as inspire confidence among the public that parties carry out their activities in an accountable manner.

Interestingly, there is a general consensus between politicians and civil society members as to the nature of the reforms that are required, seen in the response of all parties to the recommendations made by the special committee created by the government and comprising non-politicians. However, it is quite likely that the incumbent government will selectively implement political finance regulations in a way that will undermine the opposition. Members of the opposition, with some justification, argue this is the reason why they are reluctant to support reforms. These cabinet committee reforms will likely constrain them in the short term, but this has not compelled the opposition to present their own version of the reforms that are required, particularly when support for the ruling coalition appears weak.

If meaningful reforms are not instituted, it is quite likely that the current disputes between parties and NGOs about them will persist. There has long been a demand for change involving, in particular, clean governance to eradicate corruption and bring an end to patronage and

monetised politics. Moreover, even though legislation regulating parties, elections and political finance is one approach to reform party practices, significant change will also have to come from within parties. A review of party elections in various countries illustrates that as parties integrate democratic procedures into the selection process, they report that their candidates are of a higher calibre and that the 'purchasing' of party positions and nominations becomes more infrequent.⁴⁵ If officials and candidates are determined by the entire party membership through a clean, secret and fair voting process, patronage and corruption would no longer be determinants of the party's leadership.

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References

- Adamany D. and Agree G., *Political Money: A Strategy for Campaign Financing in America* (Baltimore, The Johns Hopkins University Press, 1975).
- Austin R. and Tjernström M. (eds), *Funding of Political Parties and Election Campaigns*. (Stockholm, International Institute for Democracy and Electoral Assistance, 2003).
- Case W., 'Stress Testing Leadership in Malaysia: The 1MDB Scandal and Najib Tun Razak' (2017) 30(5) *The Pacific Review* 633.
- Faruqi S.S., *Document of Destiny: The Constitution of the Federation of Malaysia* (Kuala Lumpur, Star Publications, 2008).
- Fields K.J., 'KMT Inc. Party Capitalism in a Developmental State' (Cardiff, California, Japan Policy Research Institute, 1998).
- Firdaws N., 'Political Funding Reforms Get Thumbs Up from UMNO, BN', *Free Malaysia Today* (30 September 2016).
- Fung N. and McCarthy G., 'Departure of Bankruptcy Expert is Blow to Confidence in Indonesia' *Asian Wall Street Journal* (26 March 1999).

45 International Institute for Democracy and Electoral Assistance (International IDEA), *Handbook: Funding of Political Parties and Election Campaigns* (Washington DC, IDEA, 2003).

- Funston J., 'UMNO – From Hidup Melayu to Ketuanan Melayu' in Welsh B. (ed), *The End of UMNO?: Essays on Malaysia's Dominant Party* (Petaling Jaya, Strategic Information and Research Development Centre, 2016).
- Gomez E.T., *Political Business: Corporate Involvement of Malaysian Political Parties* (Cairns, James Cook University, 1994).
- ____ 'Electoral Funding of General, State and Party Elections in Malaysia' (1996) 26(1) *Journal of Contemporary Asia* 81.
- ____ 'Monetizing Politics: Financing Parties and Elections in Malaysia' (2012) 46(5) *Modern Asian Studies* 1370.
- ____ 'Resisting the Fall: The Single Dominant Party, Policies and Elections in Malaysia' (2016) 46(4) *Journal of Contemporary Asia* 570.
- ____ and others, *Minister of Finance Incorporated: Ownership and Control of Corporate Malaysia* (Basingstoke, Palgrave-Macmillan, 2017).
- Hofnung M., 'Financing Internal Party Races in Non-Majoritarian Political Systems: Lessons from the Israeli Experience' (2006) 5(4) *Election Law Journal* 372.
- International Institute for Democracy and Electoral Assistance (International IDEA), *Handbook: Funding of Political Parties and Election Campaigns* (Washington DC, IDEA, 2003).
- Lim H.H., 'Making the System Work: The Election Commission' in Puthuchery M. and Othman N. (eds), *Elections and Democracy in Malaysia* (Bangi, Universiti Kebangsaan Malaysia Press, 2005).
- Nassmacher K.H., 'The Funding of Political Parties in the Anglo-Saxon Orbit' in Nassmacher K.H. and others (eds), *Handbook: Funding of Political Parties and Election Campaigns* (Washington DC, International Institute for Democracy and Electoral Assistance (International IDEA), 2003).
- Norris P. and Van Es A.A., 'Introduction: Understanding Political Finance Reform' in Norris P. and Van Es A.A. (eds), *Checkbook Elections? Political Finance in Comparative Perspective*. (Oxford, Oxford University Press, 2016).
- Ostwald K., 'How to Win a Lost Election: Malapportionment and Malaysia's 2013 General Election' (2013) 102(6) *The Round Table: The Commonwealth Journal of International Affairs* 521.

- Pinto-Duschinsky M., 'Financing Politics: A Global View' (2002) 13(4) *Journal of Democracy* 69.
- Rachagan S.S., *Law and the Electoral Process in Malaysia* (Kuala Lumpur, University of Malaya Press, 1993).
- Rahman A.A., *The Conduct of Election in Malaysia* (Kuala Lumpur, Berita Publishing, 1994).
- Saravanamuttu J., *Power Sharing in a Divided Nation: Mediated Communalism and New Politics in Six Decades of Malaysia's Elections* (Singapore, Institute of Southeast Asian Studies, 2016).
- Scarrow S.E., 'Political Finance in Comparative Perspective' (2007) 10 *Annual Review of Political Science* 193.
- US Agency for International Development (USAID), *Money in Politics Handbook: A Guide to Increasing Transparency in Emerging Democracies* (Washington, Technical Publication Series, 2003).
- van Biezen I., 'Political Parties as Public Utilities' (2004) 10(6) *Party Politics* 701.
- ___ and Kopecky P., 'The State and the Parties: Public Funding, Public Regulation and Rent-Seeking in Contemporary Democracies' (2007) 13(2) *Party Politics* 235.
- Von Beyme K., *Political Parties in Western Democracies* (London, Ashgate, 1985).
- Walecki M., 'Political Money and Corruption' (IFES Political Finance White Paper Series, 2004).
- Weiss M.L., 'Payoffs, Parties, or Policies: "Money Politics" and Electoral Authoritarian Resilience' (2016) 48(1) *Critical Asian Studies*: 77.
- Welsh B., 'Malaysia's Fallen Hero: UMNO's Weakening Political Legitimacy' in Welsh B. (ed), *The End of UMNO?: Essays on Malaysia's Dominant Party* (Petaling Jaya, Strategic Information and Research Development Centre, 2016).