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Political Financing Reform: Politics, Policies and Patronage in Malaysia

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ABSTRACT

This article analyses the evolution of political finance reform debates in Malaysia, one of the world's most durable electoral authoritarian regimes. While the reliance of the dominant party, UMNO, on unfettered resources remained unchanged, crises in Malaysia's political environment allowed civil society actors to concretise abstract debates over reform into specific proposals. Drawing from interviews, public statements and observation, two distinct periods in this reform debate are analysed: after Najib Razak assumed power in 2009, following the unprecedented electoral success of the opposition during the 2008 general election; and after the 1MDB scandal broke in 2015. In both periods, civil society actors took advantage of new political dynamics to present specific proposals for political finance reform. These proposals laid the groundwork for government-led reform recommendations, though key provisions were excised that would curb UMNO's power. Reform efforts stalled when the government resisted deeper reform while opposition parties offered little support for the proposed changes. This article reviews an under-researched area of policy interactions in electoral authoritarian regimes involving not just the ruling party and the opposition, but also civil society. A postscript considers the trajectory of this debate following the 2018 national elections which toppled UMNO from power.

KEYWORDS: Political financing reforms, electoral authoritarian regimes, policies, patronage, Malaysia

Ruling parties in electoral authoritarian regimes have access to considerable financial resources to use towards their political goals, one of the key reasons they are able to maintain power. This access is often guaranteed by the laws and institutions governing political finance: broadly, all money earned or spent by parties and candidates during and apart from electoral campaigns (Norris and Es 2016). But the ability of ruling parties to structure political finance regulations in their favour, and to subvert or ignore regulations when necessary, does not insulate them from political crises and pressures to reform issuing both from within the party as well as outside. How do regimes respond to political crises brought on by their own political finance practices? What role do opposition parties and civil society play in advocating for reform while engaging in government-led and biased policy processes?

This article examines the evolution of the political finance debate in Malaysia through the actions of the ruling United Malays National Organisation (UMNO), opposition parties and civil society. UMNO maintained its dominant position in governments since independence in 1957 and until 2018, governing after 1974 through the Barisan Nasional (BN, or National Front) coalition. One key part of this longevity was a political finance regime that has allowed UMNO access to significant resources while effectively restricting the opposition from doing so. But UMNO's unbroken tenure in power was marked by repeated debates over the control of money for elections. This article analyses two such debates: after substantial gains were made by opposition parties in the 2008 general election and after 2015, when public revelations about the misappropriation of money from 1Malaysia Development Berhad (1MDB), a government-linked company (GLC), catapulted the issue back into the headlines. The article traces the public pronouncements and actions by three different actors: the dominant party UMNO, the opposition parties and civil society. It highlights the role of civil society in advancing debate beyond vague calls for reform, even as government politicians retreated from deeper reforms and opposition parties remained reluctant to participate.

The first period analysed begins after the unprecedented wins of opposition parties in federal and state elections in 2008 and the installation of a new Prime Minister, Najib Razak, in 2009.¹ These shifts in political winds prompted several new developments. Banking on an image as a reformer, Najib introduced several new initiatives with the stated aim of curbing patronage and rent-seeking and reforming the financing of politics (see Malaysia 2010a; NEAC 2010). But the proposed changes garnered little public support from UMNO members. Opposition parties also remained sceptical about these reform efforts, given their perception that the reforms potentially further entrenched the ruling coalition. Najib himself quickly shifted away from his reform commitments, and in the effort to regain footing lost during 2008, the 2013 elections saw unprecedented levels of campaign spending.² Nevertheless, civil society actors managed to advance the debate on political financing by providing actual proposals over how reform could take place.

The second major period analysed occurred after 2015, when political financing returned to the spotlight with the unveiling of the 1MDB scandal. The scandal linked missing money from 1MDB to the deposit of RM2.6 billion (approximately US\$700 million in 2015) into Najib's personal bank account (Wall Street Journal, March 1, 2016). The funds from this account were allegedly used during the 2013 general election (Wright and Hope 2015). In response to these allegations, Najib formed the National Consultative Committee on Political Financing in August 2015. The Committee's members were only to deliberate the tenets of a new law; no institutional reforms were to be considered, nor was the 1MDB scandal to be reviewed. More than a year later, the Committee issued a series of reform proposals based on previous civil society recommendations, but with key provisions removed. While BN politicians publicly endorsed the Committee's proposals, civil society groups pointed out the lack of certain regulations. The opposition remained reluctant to support the reform proposals, centring their rejection on the fact that the 1MDB scandal was not addressed by the Committee. But opposition parties did not articulate alternative reform proposals. This put them at odds with civil society organisations supporting political finance reforms.

The interactions between the dominant party, opposition parties and civil society are significant in understanding currents of reform and entrenchment in political finance. While much scholarly attention has focused on describing UMNO's political finance regime, the findings of this study suggest that attention to actors both within and outside the dominant regime are important to understand sources of change. The findings suggest that in Malaysia, civil society played an important role in crystallising policy debates in ways that forced politicians both within the government and the opposition to respond. This article thus demonstrates the complex lines of debate that arise from conflicts within the government itself, the opposition parties and civil society in participating or boycotting government-led (and biased) reform efforts.

To put our arguments into context, this article first reviews the work on political finance in dominant party electoral authoritarian regimes like Malaysia. We then discuss the impetus behind calls for political finance reform in Malaysia that began during the reformasi period in 1998 and document the incomplete reforms pushed by two successive prime ministers, Abdullah Ahmad Badawi and Najib Razak. The study then turns to the debate, after the 1MDB scandal broke, and explains the dividing lines between different actors over how or whether political finance needs reform.

Political Finance in Electoral Authoritarian Regimes

A key source of the staying power of long-running electoral authoritarian regimes, particularly those featuring a dominant authoritarian party – such as Malaysia's UMNO and Singapore's People's Action Party, as well as Taiwan's Kuomintang and Mexico's Institutional Revolutionary Party (PRI) before their fall from power – has been their reliance on unevenly enforced or lopsided rules of political finance (see Hu 2011; Templeman 2012; Peschard 2006). Dominant parties use access to state resources to fund campaigns for internal party elections as well as general elections, including direct monetary inducements to voters, as well as rent distribution through patronage and clientelist ties. Control over and access to finances enable ruling parties to dominate the electoral playing field and limit the ability of opposition parties to raise the resources necessary to compete effectively (Levitsky and Way 2010, 11; Bunce and Wolchik 2011, 120).

Formal institutions governing political finance are varied. Malaysia's largely unregulated system of political finance undoubtedly benefited the dominant party, but did less to explicitly target the opposition through formal regulations. This stands in contrast with similar regimes, which have adopted clear rules that disadvantage the opposition. Singapore, Malaysia's neighbour to the south, adopted a strict regulatory approach to political financing to help entrench the power of the ruling party (Ufen 2015). That government's Political Donations Act, passed in 2000, restricted anonymous donations, a rule that the opposition Singapore Democratic Party argued was a way for the ruling People's Action Party to effectively cut off their resources, given the threat that donors would be pressured or punished by the state (Chee 2000). At the same time, Singapore's regulations ban donations from foreign sources, trade unions and charitable groups, but allow companies with partial state ownership or contracts with the government to make unlimited donations (Ufen 2015, 581). A similar law in the dominant authoritarian regime of Tanzania, the 2010 Election Expenses Act, allows unlimited contributions to candidates and parties but requires donors to be identified, a move decried by the country's opposition politicians (Arriola 2012, 250).

However, this literature has tended towards static descriptions of political finance regimes as a mechanism of authoritarian durability. On the one hand, political finance regulations are another tool in the "menu of manipulation" used by incumbent governments to hold on to power (Schedler 2002). But where does change to such systems come from? In some cases, efforts and pressures to reform political finance may issue from within the ruling government or dominant party itself. Yet ruling governments may also face pressure, brought on by successful opposition party challenges or

economic crisis, to introduce political finance reforms. While it is true that “any [political finance] reform could be manipulated to lock in a ruling party’s advantage” (Arriola 2012, 249), shifts in the broader political environment may provide the genesis for change. The Mexican case illustrates this paradox. During its long period of dominance, Mexico’s ruling PRI introduced reforms initially meant to control the opposition and allow the party to hide state resources it appropriated for its own ends. But apparently wary of the party’s reliance on state resources, the PRI government pushed through reforms that banned donations from state agencies in an attempt to “wean” the PRI from its dependence on the state. The PRI also privatised state enterprises, increased public financing and introduced stricter political finance regulations – all of which contributed to a levelling of the electoral playing field (Greene 2007, 114). These changes were followed by electoral reforms that further levelled the playing field for the opposition. Importantly, the opposition parties were able to use their wins at the ballot box to negotiate further reforms to the electoral system: After the opposition party PAN scored major electoral wins in the late 1980s, they negotiated reforms that included an independent electoral commission, including an independent electoral commission, that ended up severely constraining fraud by PRI in subsequent elections (Magaloni 2008, 244).

Of course, formal changes to political finance regimes may only partially regulate hidden or illicit sources of finance. Even as the formal financing regime grew tighter, parties, especially PRI, raised enormous sums off the books. At one point, PRI raised an estimated 20 times the legal limit for campaign finance for its electioneering activities (Levitsky and Way 2010, 158 fn 345). Greene (2007, 114) notes that the opposition also took advantage of illegal foreign funds prior to winning the presidential election in 2000. But cumulatively, these dynamics suggest greater attention to the strategic interactions and conflicting incentives of different actors in authoritarian societies. It is unclear from existing scholarship how ruling governments manage conflicting pressures of reform or maintenance of political finance regimes and how opposition parties interact with ruling governments over changes to political finance; nor does this literature deal with the role of civil society actors in reform debates of this sort.

In particular, the pursuit of political finance reform creates a dilemma for the opposition and civil society. Opposition parties may have a normative, as well as instrumental, interest in lessening the systematic financial advantages of the incumbent regime. As some scholars argue, only when opposition parties have access to the resources previously enjoyed just by ruling parties can they compete effectively (for example, Arriola 2012). Yet, changes to political finance regimes, without accompanying institutional reforms, may leave opposition party practices open to greater scrutiny, disadvantaging the parties in the short term even though these changes may lay the basis for genuine reform in the future. Civil society actors, too, face choices in the extent to which they participate in government-led policy processes, thus providing legitimacy to the government’s efforts, or staying out of the process. In the following sections, we trace these conflicts through these political actors in Malaysia’s recent history.

Political Finance in Malaysia

Before turning to the recent history of reform debate, we briefly review here Malaysia’s political finance regime and the formidable challenges to introducing reform. Several works have described the structure of political finance and the funding sources of its major parties (Gomez 2012; Ufen 2015; Weiss 2016). To summarise the most important features of Malaysia’s political finance regime as currently practiced: unlimited anonymous donations to parties are allowed; political parties can own businesses; and the ruling parties benefit from the network of GLCs that make up a substantial portion of Malaysia’s economy (Gomez et al. 2017). Party finances are largely hidden; while political parties must submit audited financial reports to the Registrar of Societies each year, the public does not have access to these reports (Transparency International 2010). These dynamics explain why the funding of

politics has continued to be opaque, loosely regulated and skewed to benefit the incumbent government (Ufen 2015).

Yet issues concerning political finance go deeper than the lack of regulations, given the tight links between the main political parties of the ruling coalition and business (Gomez 2009). Malaysia's government is highly interventionist, holding control over a vast segment of the corporate sector with a huge presence in banking, construction and media. GLCs are a crucial source of patronage and even a covert source of funds, as recently demonstrated by the 1MDB scandal. Despite the restructuring of ownership and control of the leading public-listed GLCs since the 2000s, they can still be used for patronage (Gomez et al. 2017). These links have incentivised private businesses to ally themselves to the ruling elite (Gomez 2009). The leading quoted GLCs are led by trusted corporate professionals who are accountable primarily to the minister of finance – a post concurrently held by the prime minister, an issue of much public criticism.

Access to resources were crucial to the ruling UMNO for two reasons. First, they allowed party leaders to deter exit and ensure the loyalty of party members, excluding the distribution of benefits to those seen as critics of national leaders or those who shift their support to the opposition. This has been seen in various episodes in UMNO's history where patronage remained key for ensuring loyalty in the face of regime defectors (see Brownlee 2007, 139). Second, it allowed UMNO to pay party workers and to maintain support of the electorate through a variety of services. UMNO cemented the loyalty of voters by providing everything from public goods and services to small favours. During electoral seasons, an army of party members campaigned door-to-door and plastered everywhere a voluminous number of posters of UMNO, BN and their candidates (Weiss 2016). In villages, UMNO workers constantly visited voters at their houses and invited them to gatherings in the neighbourhood to meet the candidates. Allegations of votebuying and cash handouts were common, particularly in rural areas, though their prevalence is difficult to substantiate (for example, Bersih 2016). This style of intensive and continuous campaigning required substantial access to funds.

The main opposition parties – the Democratic Action Party (DAP), the People's Justice Party (PKR) and the Pan-Malaysian Islamic Party (PAS) – historically relied on very different sources of finance, using membership fees, donations from supporters, compulsory contributions by sitting legislators and sales of their party newspaper (Gomez 2012). This limited the ability of opposition parties to engage in resource-intensive campaigning – such as patronage, promises of infrastructure development and direct vote buying – that BN had been able to engage in (Weiss 2016).

Prior to 2008, the focuses of public attention and reform were largely oriented towards UMNO's internal politics, as the party largely set the course for Malaysia's politics. As UMNO's sources of funding shifted, tensions over political finance and the distribution of rents became prominent. In the early 1970s, UMNO began seeking new sources of funding to lessen its financial dependence on its leading coalition partner, the Malaysian Chinese Association, a party led by wealthy businessmen (Gomez 2012, 1382). In the 1980s, UMNO's membership shifted decisively away from its rural base to professionals and business people, increasing allegations of vote buying for elections as well as for internal party elections. The perception that the culture of patronage and corruption was corrosive to the party's support sparked calls for reform (Case 2005, 143). Then Prime Minister Mahathir Mohamad was eventually compelled to denounce the influence of money over politics in 1985 (Gomez 2009, 5–7). Subsequent UMNO presidents spoke of the debilitating effects of money politics on the party and the need to eradicate it, while implementing piecemeal reforms. Under Prime Minister Abdullah Ahmad Badawi, for example, efforts such as reviewing government contracts and cracking down internally on corruption did not lessen the practice of money politics (Case 2005, 12). Those found guilty of buying support were not brought to criminal trial but sanctioned within the bounds of the party. While there was undoubtedly a public relations aspect to these pronouncements,

the heavily monetised aspects of UMNO's politics likely did contribute to factional politics within the party and incurred costs on the party's public image.

The debate over political finance reform, especially in terms of corruption and money politics, rose to greater public prominence during the Asian Financial Crisis in 1997–1998. In the 1999 elections, the reformasi movement and opposition parties, comprising a large number of members of civil society, made broad calls for reform of Malaysia's political institutions to reduce corruption and cronyism (Weiss 2005, 138). Yet, while the opposition coalition called for clean governance and transparency, as well as ending a patronage system that appeared to enrich only UMNO elites, there was little specifically said about what the reforms would look like (Weiss 2005, 146–147). The Coalition for Clean and Fair Elections (Bersih), a major non-governmental organisation (NGO), formed with the opposition parties, took up issues of electoral reform in 2006. However, the matter of political financing was not specifically raised. Instead, Bersih's demands centred more on the transparent conduct of elections and avoiding electoral fraud (see, for example, Bersih 2008).

The funding of DAP, PKR and PAS largely escaped public attention, in large part because they had little access to the funding sources enjoyed by the parties of the ruling coalition. The parties historically relied on membership fees, donations from supporters, compulsory contributions by sitting legislators and sales of party newspapers (Gomez 2012). As a result, opposition funding remained largely out of reform discussions.

2008 Elections and Aftermath

The 2008 elections brought to the fore the debate over political finance reform, as key issues that had emerged during the campaign included the rampant practice of patronage that had contributed to cronyism that was stifling domestic investment.³ As a result of the poor showing of UMNO in the elections, there was great pressure on the incoming Prime Minister Najib to publicly commit to a broad reform agenda. Najib, as the new prime minister in 2009, vowed to usher in an era of “transparency, democracy and the rule of law” (The Star, April 4, 2009). Najib made explicit calls for transparent and accountable governance, including through institutional and legislative reforms (see, for example, Rodan and Hughes 2014, 74). It appeared that the public regulation of political parties – not limited to UMNO – would finally make it into public debate.

Najib introduced a slew of reform ideas dealing with a range of issues, including the financing of politics, reducing the state's presence in the economy and bringing to an end selective patronage-based affirmative action. In January 2010, he put forward his Government Transformation Programme, which included a promise to tackle “grand corruption.” As part of the programme, it was promised that a study would be conducted on “revamping political funding within the bounds of the constitution... [including] the possibility of introducing an enhanced disclosure process, cap on private donations and supplementary public funding” (Malaysia 2010a, 24). Work began on political finance reforms under a new policy-based unit, PEMANDU, situated under the jurisdiction of the prime minister and run by private sector professionals. It began considering proposals to reform political financing.

But, not long after, Najib retreated publicly on these key reforms. He reversed his decision to cease the policy of affirmative action – his revised proposal was “market friendly affirmative action” – as the political financing reform plan was quietly shelved and the government stopped advocating privatisation as a core policy objective (see Malaysia 2010b, 141–149). In part, Najib's retreat reflected pressure from other parts of society not to institute major reforms that would undermine the existing system. The demands of these groups, particularly Persatuan Pribumi Perkasa (Perkasa), reflected discontent within UMNO. The patron of the Malay-based Perkasa was former Prime Minister Mahathir and the group's primary concern was Najib's intent to cease the policy of

affirmative action (see Chin and Teh 2015). There were also clear instrumental reasons for the party to avoid political finance reform. In 2012, in response to a corruption investigation involving RM40 million received by UMNO's Sabah branch, Najib stated that "we are not at liberty to disclose [the donation] because the opposition also receives donations and they don't disclose" (The Star, October 13, 2012).

Nevertheless, Najib continued to voice his support for reform plans. In a speech to members of the Malaysian Anti-Corruption Commission (MACC) in February 2012, he stated that the agency would be used to investigate political financing. He argued that all contributions to a political party at federal or state level should be channelled through official party accounts (Funston 2016, 84–85). Instead, however, UMNO politicians sought internal regulations to improve the party's performance and perception among the electorate, rather than broader public regulations. Najib eventually announced changes to voting within UMNO, specifically to reduce money politics by enlarging the eligible electorate for internal elections. But rather than eliminating money politics, the new system meant that patronage was distributed in ever-larger amounts to division heads and parliamentarians (Funston 2016, 121).

Money politics within UMNO continued. In preparing for the 2013 elections, Najib allegedly brought together party factions through financial rewards to reduce the factionalism seen as a factor in UMNO's poor electoral performance in the 2008 elections (Welsh 2016, 230; Saravanamuttu 2016).⁴ Inevitably, the UMNO president needed access to funds to service these patronage ties and shore up support. The amounts needed were high. Funston (2016) reported that Tengku Razaleigh Hamzah, a former UMNO vice president and minister of finance, disclosed that UMNO division heads and parliamentarians received RM50,000 per month or more. Despite the enormous expenses tied to intra-party patronage, the distribution of this money was arguably imperative for UMNO leaders to build a support base that could be mobilised during general elections.

Civil Society Efforts

Despite the reluctance of Najib's government to move forward on reforms, the results of the 2008 general election spurred the creation of comprehensive and specific proposals to regulate political finance. Transparency International (TI)-Malaysia unveiled a 22-point memorandum on political financing reforms in May 2011 (Malaysiakini, December 9, 2014). Among other proposals, the memorandum recommended full public disclosure of the amounts and sources of party finances and expenditure, limits on political donations and the channelling of political contributions through party accounts rather than individual accounts. TI then initiated a project to review the financing of politics and to prepare relevant recommendations to eradicate processes hindering the conduct of fair elections.

The TI proposals were presented to both opposition parliamentarians and members of the BN in a series of meetings in 2009 in parliament. At the meetings, attended by one of the authors of this article, the response was notably lukewarm.⁵ In a parliament roundtable with opposition politicians, the parliamentarians argued that full disclosure would hurt their contributors and consequently the financing of the opposition. They claimed that their donors would be harassed or prosecuted by public agencies should the opposition fare well during elections. In a subsequent meeting with TI, meeting minutes disclosed by a federal minister, Abdul Rahman Dahlan, outlined this reluctance in more detail: PKR's Tian Chua stated that he "feared that full disclosure would hurt their contributors and consequently the financing for the opposition; the fear is that the donors might be prosecuted by the winning coalition for supporting the losing coalition in a general election. This would result in a substantial decline of income source for the losing coalition" (Dahlan 2015). Other opposition politicians also reflected a reluctance to pursue reform. For instance, in 2014 PKR politician Rafizi

Ramli argued that political financing legislation could be a “double-edged sword” for the opposition if it curbed some of UMNO’s practices but also penalised the opposition (Teoh 2014).

A TI meeting to discuss reform recommendations with BN parliamentarians was similarly coolly received. The only person who turned up for the meeting was Mohamed Nazri Abdul Aziz, in his capacity as minister in the Prime Minister’s Department.⁶ During the meeting, Nazri acknowledged that general elections were free but not fair as political parties did not have equal access to funds. He stated his in-principle agreement with TI’s recommendations, including direct state funding of parties to reduce, or even halt, their dependence on business for money to run their campaigns; the prohibition of media ownership by parties and full disclosure of political donations. But Nazri, like the opposition, was unwilling to implement TI’s recommendations, even as Najib was then actively endorsing reforms including a Political Parties Act that would regulate the financing of politics. Nazri’s stated concern was TI’s recommendation that power be devolved to oversight agencies such as the Election Commission, the MACC and the Attorney General’s Chambers. He strongly opposed this recommendation at this meeting, even after TI argued that if his government wanted Malaysians to believe that public announcements about improving the financing of politics were credible, this devolution of power had to be instituted.

The series of meetings ended without apparent take-up by the government. TI went on to publish a book on its proposed reforms, titled *Reforming Political Financing in Malaysia*, in 2010. In subsequent government plans, including the New Economic Model, the Economic Transformation Programme and the Tenth Malaysia Plan, the devolution of regulatory power proposed by TI was not recommended or instituted. Opposition parties did not present alternative plans for reform. At that moment, specific reforms of political finance mooted by prominent civil society organisations appeared stalled.

Post-2015: Political Reform Debate Re-Invigorated

Events in 2015 brought issues of political financing back to the public agenda. Early that year, public revelations about misappropriated money from the economic development fund 1MDB prompted international scrutiny and domestic outcry. Originally a state-level economic development fund established in Terengganu, 1MDB was reconstituted as a federal entity by Najib in 2009, who then assumed the position of chairman of the board of advisors. The development fund reached international fame after the Wall Street Journal (March 1, 2016) alleged that at least US\$1 billion was misappropriated from 1MDB and channelled to Najib’s private bank account. This money was part of the at least US\$3.5 billion that the US Department of Justice (2016) alleged was misappropriated by executives of 1MDB.

Debate soon began over the source of the funds, with Najib stating that US\$681 million of the money found in his bank account was a donation from Saudi Arabian royalty (BBC News, July 22, 2016). But regardless of the source, it was revealed that some of the money deposited into Najib’s account was reputedly channelled to politicians preparing for the 13th General Elections in 2013. Following another Wall Street Journal (March 13, 2016) article, Najib’s brother, Nazir Razak, confirmed that he had received approximately US\$7 million from Najib’s personal account, with instructions from UMNO leaders to disburse it to UMNO politicians before the 2013 elections.⁷

As the scandal reverberated in Malaysian politics, calls grew stronger to end anonymous flows of money for political finance. Even as domestic investigations into 1MDB closed or stalled as an apparent result of government pressure, Najib announced a plan to institute political finance reforms in August 2015. A cabinet-appointed committee, the National Consultative Committee on Political Financing (hereafter the Consultative Committee), was formed to draw up proposals that would inform the writing of a new political finance law. Najib announced that the Consultative Committee

would formulate reform plans and improvements to existing laws within the space of a year, before the GE14 election.⁸ To head the committee, Najib appointed Paul Low, a former president of TI. Low had been appointed by Najib as a minister in the Prime Minister's Department after the 2013 election. It had been under Low's leadership of TI that initial proposals for political finance reform were mooted.

The timing of the Consultative Committee's formation and scope of its authority invited scepticism from some actors. Lim Chee Wee, a member of MACC, stated that the Consultative Committee's creation ordinarily would be applauded. "But ... given the circumstances leading to Najib's announcement it is seen by a large majority of Malaysians as an insincere move to distract [from] the perceived wrong of the alleged donation" (Ruxyn 2015). The Malaysian Bar Council declined to participate in the Consultative Committee for the same reason (Ruxyn 2015). The Consultative Committee's purview also did not include assessing the institutional framework regarding elections, such as the Elections Commission and the Attorney General's Office. Media statements by Paul Low, now acting as the head of the Consultative Committee, seemed to confirm that the looming 1MDB scandal would not be directly addressed. In one interview, Low acknowledged that he was aware that money had been channelled into the prime minister's account, but the Consultative Committee had no jurisdiction to investigate this matter and Najib had no duty to explain this donation.⁹

In response to the government's failure to deal with 1MDB and the perception that funds from it were being channelled to UMNO, civil society actors attempted to push the new committee to concrete discussion regarding institutional reforms. Seventy NGOs, led by G25, a group of prominent and mostly retired Malay civil servants, submitted to the prime minister a proposal on political financing reform in August 2015 (The Star, August 16, 2015). The proposal, which also included recommendations from business associations, outlined reforms covering the regulatory and legal framework of political financing, ensuring autonomy and enforcement power for institutions and regulation of both general election campaigns as well as internal party elections. The report also argued that the public should have access to information about financial contributions to political parties and candidates, but the selective persecution of donors by the government would be explicitly forbidden. These proposals were submitted to the prime minister, who did not respond to a request by these NGOs to discuss the matter.¹⁰

A year after its formation, in the wake of repeated demands by NGOs about the government's promise to reform the financing of politics, the Consultative Committee released its recommendations in September 2016. It proposed the creation of a new statute known as the Political Donations and Expenditure Act (PDEA) to regulate all aspects of political financing, overseen by a parliamentary standing committee on political financing (see New Straits Times, September 30, 2016). The statute would ban state-owned enterprises and companies receiving government contracts and concessions from making donations. The Consultative Committee also recommended state funding for political parties, which justified full disclosure of income and expenditure across all different types of political finance, including internal party elections, electoral campaigns, party organisations and educational or charitable activities by parties.

Many of the Consultative Committee's proposals resembled those produced by the G25-led NGO coalition. However, as noted by the coalition in a subsequent press release, there were fundamental differences between the two (The Star Online, October 4, 2016). Significantly, the Consultative Committee proposed removing caps on donations to politicians or parties, legitimising unlimited amounts of money for political finance purposes. The NGO coalition contended that without institutional reforms, there was no guarantee that the opposition parties and their donors would not be unfairly targeted by the new statute. They also noted their concern that the Consultative Committee's disclosure requirements could possibly hinder business donations to opposition parties if their donors had no guarantee that they would not be victimised.

The Consultative Committee was also silent on the issue of deeply monetised elections within parties, although civil society had long held that this issue had to be addressed in order to curb serious factionalism based on patronage and the inability of young members to move up the party hierarchy. Indeed, the reforms proposed by the Cabinet Committee hardly dealt with the core issues that needed to be tackled to curb the widespread abuse of money in the political system. Despite the watered-down reform measures in the Consultative Committee's recommendations, the timeline for reforms before the next election was missed. Although the government had proposed to have the PDEA statute in place before the 14th General Elections, due by mid-2018, Consultative Committee head Paul Low announced that the proposed law would not be tabled in parliament before the elections. Low said that the technical committee was still formulating the new act (The Sun, September 2, 2017).

Opposition Response to Reform Proposals

Although the 1MDB scandal had reinvigorated public awareness of political finance and demands for reform, the opposition parties appeared hesitant to sign on to government-led initiatives. Like previous proposals by the government to reform political financing, the opposition parties rejected the Consultative Committee's recommendations. Not surprisingly, the opposition viewed Najib's move to create the Consultative Committee as an attempt to deflect attention from the 1MDB scandal. DAP leader Lim Kit Siang, who had a long history of support for reform, argued that before talk of reform could move forward, Najib first had to "re-establish his moral authority to talk about transparency and integrity on political funding" by accounting for the missing 1MDB funds and the donation that went into his personal account (Lim 2015). The DAP and PKR declared that they would join the Consultative Committee to discuss the proposed reforms only if the 1MDB controversy and the RM2.6 billion foreign funds that had been channelled into Najib's bank account were addressed (The Malay Mail, August 20, 2015).

After the Consultative Committee's recommendations were released, DAP Secretary General Lim Guan Eng issued a statement calling the proposals a "political gimmick" (Lim 2016). He criticised the proposed removal of limits on campaign spending, lack of asset declarations and failure to outlaw donations made directly into personal bank accounts of politicians. He also raised concerns about the impartiality of the office created to monitor party donations and expenditure (Lim 2016). DAP MP Ong Kian Ming, while praising some of the Consultative Committee's recommendations, raised concerns about the independence of the proposed creation of a new office to which all parties must report donations, which has the power to audit and even ban parties from participating in elections if they violate disclosure rules. Ong noted that if the head of this office responded to pressure from the government, like other public oversight institutions, then it could well become a tool against the opposition (Ong 2016).

Government officials and UMNO politicians sought to portray the reluctance of the opposition to support political finance reform as self-serving. In an article in the online news portal, Malaysiakini, cabinet minister Abdul Rahman Dahlan argued that the DAP had opposed reforms out of self-interest and kept its own sources secret while demanding transparency about UMNO's financing (Malaysiakini, July 31, 2015). The head of PEMANDU, Idris Jala, argued that:

Since 2010, we tried hard to convince both Barisan Nasional and Pakatan Rakyat to accept our recommendations ... in 2014, when for the second time our Prime Minister had called for the regulation of political financing, senior Barisan party members argued that to be fair, it should be implemented in tandem with Pakatan. We felt positive about this because at least one side (Barisan) accepted our proposal and the other side, Pakatan may perhaps have been keen to jump on this bandwagon given their stance on governance and transparency. Again, we ended up with no voluntary takers (Jala 2015).

In August 2015, as opposition parties stated the need for a reckoning with 1MDB before political finance reform could be discussed, Jala criticised “the trickery to lay conditions and requisitions ... only backpedals efforts and holds ransom the solution towards transparency and accountability in political financing” (Jala 2015).

There were ample reasons to fear that the government-led reforms would harm the financial base of the opposition. Opposition parties reported that potential donors worried about harassment if their opposition links are revealed (Interview, opposition party treasurer, Kuala Lumpur, March 22, 2016). In this regard, Stanley Thai Kim Sin, a prominent businessman who actively campaigned for the opposition during the 2013 elections, merits mention. Following the election, Thai encountered serious problems from the government; he was subsequently charged with insider trading in December 2014 (The Star, December 15, 2014). By 2016, Thai was publicly declared that he had simply been a “vocal” citizen during the 2013 elections, denied any involvement with the PKR-linked Institut Rakyat and said he did not endorse any opposition party (The Star, May 28, 2016). Mandatory disclosure of donors would presumably discourage potential contributors who fear retribution.

But, while rejecting the Consultative Committee’s recommendations, the opposition did not offer an alternative position on political finance reform. This is noteworthy given the demonstrated capacity of the opposition to prepare detailed statements and positions on important issues. The opposition had built capacity through a variety of party-linked think tanks, such as the Institut Rakyat and the Penang Institute. They offered alternative budgets, as well as critical feedback on a range of public policy issues. Furthermore, as noted earlier, opposition resistance to political financing reform predated the 1MDB scandal.

Opposition parties may also have had a short-term electoral stake in maintaining the existing system of political finance. Despite the daunting resource imbalances between the opposition parties and the BN, the opposition was able to make great electoral inroads, even into former BN strongholds, over the previous two elections. After the 2008 elections, BN lost control of the wealthy industrialised states of Penang and Selangor. Two of these highly urbanised states, Penang and Selangor, have a strong industrial base and a large middle class. Subsequently, DAP and PKR, in particular, obtained a reputation for being pro-business in the two states. According to one opposition legislator, these wins meant they were able to attract greater corporate donations as companies started “hedging,” by contributing to them as well as the BN (Interview, Kuala Lumpur, January 5, 2016).

Public donations and contributions from sitting legislators appeared to constitute a substantial part of the budgets of opposition parties. However, the finances of opposition parties were dwarfed by the resources available to UMNO. Opposition parties relied on a variety of sources of political finance: donations, a portion of the salaries of sitting legislators, as well as fundraising at regularly-held *ceramah* (public forums) and dinners (Gomez 2012, 1383–1384; Weiss 2016, 84–85). Given that the opposition parties could potentially pave a path to victory under the existing system, the short-term incentives for them to alter the rules of the game were lower. On the campaign trail and in conversations with the press, opposition parties largely highlighted the personal corruption linked with the 1MDB funds and the alleged lavish spending on private goods by Najib and his family. Yet, they remarked less on the larger rationale given by Najib: the political donation that went into financing the UMNO campaign during the 2013 elections (Wall Street Journal, December 29, 2015).

Conclusion

This study has examined the shifting of the political finance debate in Malaysia through an increasingly contentious political environment. Prior to the 2008 elections, opposition parties had

actively supported civil society endeavours to reform the financing of politics, most evident in the first Bersih campaign in 2007. However, after securing control of key state governments in the 2008 election, the views of most opposition parties on political financing, specifically the need for disclosure of the sources of their funds, came to be remarkably similar to those of the dominant party, UMNO. Although the ruling and opposition coalitions publicly declared the need for political financing reforms, these parties failed to institute reforms at the national or state level. This reluctance to change the rules on political financing brought these parties into serious contestations with civil society actors who endeavoured to institute legislative and institutional reforms as well as mechanisms to curb money politics during elections within parties.

Even in the wake of the 1MDB scandal, fundamental political finance reform appeared elusive. In the face of declining electoral support, UMNO and the BN coalition increasingly relied on unregulated political finance even as it severely undermined the government's legitimacy. Nevertheless, the 1MDB scandal reverberated in ruling party politics. The issues surrounding 1MDB and the prime minister's slush fund destabilised UMNO, contributing to serious intra-elite feuding. This feud culminated in a formidable new opposition party led by former Prime Minister Mahathir.

At the same time, opposition parties similarly relied on unregulated funding as a means to secure sufficient funds to mount an effective campaign to unseat the long-ruling BN. Had the government-led Consultative Committee proposals in the form of the PDEA statute become law, it may have served to entrench the ruling party's hegemony. The new law would have provided ample ground to be selectively applied to the opposition, undermining their activities among the electorate. Yet, the opposition also had a greater stake in the current system, as their state-level wins in 2008 and 2013 afforded them more access to funds that were previously only available to UMNO and its BN partners. Judging from the actions of the opposition, they had more reason to support the status quo in the form of unregulated political finance, which provided space for them to raise funds even as it systematically disadvantaged them compared to the ruling party.

While civil society activists played a significant role in the evolving debate, they largely found themselves on the other side from both the opposition and BN on the issue of political finance reform. They remained conflicted over the extent to which they could steer potential reforms in ways that did not simply entrench the ruling government's power and potentially undermine the opposition while recognising the imperative need for regulation to political financing to ensure transparency and accountability in governance and policy planning and implementation. However, in the long term, if meaningful reforms are not instituted, it is quite likely that the contestations between political parties and civil society will persist.

Comparing Malaysia with the dominant party authoritarian regimes in Mexico and Singapore suggests two different paths that political finance reform may take. Prior to the 2018 elections, it appeared that Malaysia's political finance reforms would be closer to those in Singapore, where new political finance laws served to entrench the ruling party's hegemony. The debate over political finance reform in Malaysia took on a sharper and even more politicised character after 2015 with a focus on money politics within parties, seen in the proposals by civil society. And yet, as the increasingly embattled prime minister faced an impending general election that would provide a clearer signal of his standing, he likely relied on channelling funds to key supporters and voters at a level higher than ever. At the same time, there was legitimate fear by the opposition that these new regulations would be selectively applied.

The case of political finance discussed in this article demonstrates how continued resistance, particularly from the ruling party, can halt reform even in the face of serious political crises. Yet, in showing the conflicting incentives and behaviour of opposition parties and civil society, it also shows that the behaviour of other actors in electoral authoritarian regimes matters for understanding how policy debates unfold. These interactions between civil society, opposition parties and the ruling party

have been key to “protracted transitions” to democracy, where decades of contestation and bargaining eventually pave the way for democratisation (Eisenstadt 2007). While increasing regulation may very well have continued to favour the BN, over the long term it may have laid the basis for further negotiation between key actors in the struggle for Malaysia’s democracy. The long-term trajectory of these interactions depends, in large part, on whether actors from all sides accept the necessity for regulation of the country’s political finance regime.

Postscript

In Malaysia’s 14th General Election held in May 2018, the Pakatan Harapan (PH, or Alliance of Hope) coalition of opposition parties unseated UMNO and its coalition BN government from power. For the first time, a change of government had occurred and UMNO was not the hegemonic party in a governing coalition. However, Mahathir, who had served as UMNO president between 1981 and 2003, returned to power as prime minister, along with ex-party allies, suggesting that while a significant change had occurred, some things remained the same. Indeed, the three most powerful actors in government now were Mahathir, Anwar Ibrahim, designated as the prime minister-in-waiting – he is scheduled to take over in two years – and economic advisor, Daim Zainuddin. These three men, all once in UMNO, were the most powerful members of government in the early 1990s, before Anwar’s ouster from the party in 1998 which led to the emergence of the reformasi (reform) movement that sought to undo the centralisation of economic and political power in the office of the executive that had occurred during Mahathir’s long rule (see Weiss 2005). In one of the great ironies of the May 2018 election, Mahathir had emerged as the politician who could potentially institute many of the reforms that had been articulated by this movement.

UMNO’s fall introduced an interesting twist to the dynamics of political finance reform in Malaysia. The issues raised in this article, accepted for publication prior to the May 2018 election, have been brought into new relief as PH enters its first year in power. This brief postscript reviews the implications and potential trajectories of political financing reform after incumbent turnover.

One core reason for UMNO’s unprecedented electoral defeat was the disastrous consequence of the 1MDB scandal on the public image of the government and Prime Minister Najib. Although Najib had initially consolidated power within UMNO by ousting his critics and shutting down criminal investigations into 1MDB, a GLC, the scandal ultimately precipitated a serious split within party ranks. This feud led to the emergence of a breakaway party led by a formidable team of ex-UMNO leaders, including Najib’s mentor, former Prime Minister Mahathir, as well as former Deputy Prime Minister Muhyiddin Yassin and supported by a large group of prominent retired UMNO leaders. This party combined forces with PKR, led by former Deputy Prime Minister Anwar. A new opposition coalition was forged between these parties, as well as the DAP, which had strong electoral support among the urban non-Malay electorate.

After the resulting alliance of strange bedfellows in PH had won power, Mahathir was named prime minister with responsibility for fulfilling the manifesto pledges these parties had made but likely not expected to be able to institute. The reform mandate of the new government constituted a long list of hoped-for changes of the country’s political and economic institutions. Mahathir stated that political financing reforms were imperative, though specifically to curb corruption (New Straits Times, July 9, 2018). A critical issue moving forward was whether the new government would introduce legislation that offered greater disclosure of sources of party funding and restrictions on the deployment of money in Malaysia’s electoral process and party elections.

PH’s electoral victory transpired despite the continuing resource imbalance between this coalition and the ruling BN government. Unlike other paradigmatic cases of incumbent turnover, such as Mexico’s PRI loss in presidential elections in 2000, neither a significant loss of state resources nor a levelling of

the playing field was instrumental in the opposition winning power. In the lead-up to the 2018 elections, although the opposition parties increasingly benefited from unregulated sources of finance, the BN had access to far more monetary resources, including from GLCs (see Gomez et al. 2017). The GLCs that were supposed to be playing a role in helping the Malays, UMNO's primary support base, had been exposed before the election as being involved in serious corruption. This included major GLCs such as the plantations-based FELDA, MARA, the institution created to uplift poor Malays, the pilgrimage-centred Tabung Haji and LTAT, the armed forces investment fund. As the new governing coalition, Mahathir and his allies inherited limited and loosely enforced policies and regulations that serve to keep the PH parties well-funded as they seek to consolidate their position in government. PH, after all, secured only about 48% of the popular vote in the general election.

In its election manifesto, the PH coalition pledged its commitment to introduce a Political Financing Control Act within its first year of administration. The main principles of this Act would include annual state funding for qualifying political parties, a limit on the total worth of assets held by political parties, the end to anonymous political donations, the outlawing of political donations by GLCs and the submission of audited annual financial reports by political parties (Pakatan Harapan 2018). Implementation of these principles would pave the way forward to curtailing the excesses of unregulated political donations and spending by the state and political parties that had marked Malaysian politics in decades prior. One specific demand made by civil society that was not included in the manifesto was public oversight of intra-party elections, specifically through the Election Commission. After all, the abuse of money during party elections had emerged as an issue in not just UMNO but also other parties in the BN and PH.

Six months after coming into power, the government had made no firm commitments on moving forward on its new law. TI-Malaysia and Bersih both released statements in June of 2018 calling on the government to fulfil its promises in its manifesto around political finance reform and translate them into legislation (Free Malaysia Today, June 1, 2018). In October 2018, Prime Minister Mahathir stated that the PH's finances were "in a critical situation" (The Malay Mail, October 5, 2018). In his comments, he seemed to qualify PH's pledge to pursue state financing of political parties, indicating that the mechanism by which parties would be funded under possible new legislation was not settled (The Malay Mail, October 5, 2018).

In the meantime, reforms into the system of GLCs, which the PH manifesto pledged would be required to fulfil the OECD's corporate governance rules on state-owned companies, remain ongoing. The PH government also began unrolling limited declarations of assets by cabinet ministers and members of parliament (although not state-level legislators) on the website of the MACC.

The PH government, however, has begun to address some of the political finance and corruption scandals that emerged in the previous administration. Corruption charges have been levelled against the current and former presidents of UMNO, Zahid Hamidi and Najib respectively, as well as party vice president and former minister Mahdzir Khalid, with more likely to come. Mahathir stated that "thousands" of graft cases from the Najib administration, mostly involving UMNO, remain to be investigated. Recent revelations of the role of the state sovereign wealth fund, Khazanah and Bank Negara, the Central Bank, in servicing IMDB debt show that the untangling of corruption cases will continue over the short term.

Yet, these scandals can recur under the new administration unless further regulations are introduced. For example, the October 2018 internal election of PKR, a member of the PH coalition, was marred by allegations of money politics, including vote buying of individual voters and at the district level (The Sun, October 18, 2018). This suggested that the PH parties may face challenges in promoting intra-party democracy through greater transparency in the conduct of party elections, a core demand by civil society in its demands for reform of political financing. Harkening back to UMNO's policy of keeping money politics out of public scrutiny, Finance Minister and deputy coalition president Lim

Guan Eng declared that the PH would not interfere with PKR's party affairs and that the party should handle the matter internally.

UMNO's fall from power served as an opportunity for it to institute internal reforms, including to cease its debilitating practice of patronage and money distribution during party elections. This did not occur during the UMNO election that was held in June 2018. During this election, again fraught with serious allegations of money politics, UMNO warlords were re-elected to office while Zahid was elected president. Although Zahid was expected to be charged for corruption, this did not deter UMNO members from electing him even though he was challenged by two credible candidates, thus losing the opportunity to select more appealing leaders (Malaysiakini, July 1, 2018). UMNO has since shown little or no effort to institute internal reforms, including the curbing of monetised politics and to reconstitute itself as a credible opposition party.

Meanwhile, PH's handling of core issues, such as the introduction of a well-constituted Political Financing Control Act, the devolution of power to key oversight agencies such as the Election Commission, the MACC and the Attorney General's Chamber and reform of the GLCs, will be critical if the next Malaysian general election, which must be held by 2023, is governed by a reformed set of political finance regulations. It will be part of the broader test as to whether elections are held on a more genuinely level playing field and if Malaysia is to undergo a transition to full electoral democracy.

Arguably, the current strength of the ruling PH coalition in both national and state governments offers it the political space to implement its manifesto pledges without fear that these reforms will endanger its political position in the next elections. The current disarray of the opposition has removed UMNO, one significant political actor, from opposing reforms. However, what is also occurring is the hopping of UMNO parliamentarians and state assemblymen into PH parties, specifically those now led by ex-UMNO leaders. Some may hope that this move could help protect them from corruption investigations. By accepting these party-hoppers as members, these parties can strengthen their position in the PH coalition. Thus, it remains to be seen whether civil society actors, operating in a less constrained political environment, will provide the key impetus for pushing forward genuine political finance reforms.

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Notes

1. In this election, opposition parties won, for the first time in history, control of five of the 13 state governments. BN also lost the popular vote in the peninsula but retained power because of the support it obtained in the Borneo states of Sabah and Sarawak (Case 2009).
2. In spite of this, in the 2013 election, the opposition secured 50.87% of the popular vote, but failed to secure power only because of extensive gerrymandering and the malapportionment of seats. BN secured only 45.74% of the popular vote in the peninsula. Nationwide, BN's popular vote was a mere 47.38% (Saravanamuttu 2016). BN returned to power only because it had secured a simple majority in parliament, an outcome attributed to gerrymandering and the malapportionment of seats (see Ostwald 2013).
3. For a review of the debates in the 2008 elections involving the issue of money politics, patronage and cronyism, see Saravanamuttu and Maznah (2019) and Saravanamuttu (2016).

4. A deeper analysis of this form of monetised politics, practiced within UMNO, is dealt with in greater depth by Saravanamuttu and Maznah (2019).
5. The description in this paragraph is drawn from the author's observations during the meetings.
6. There was an important reason why no member of the Backbencher's Club joined the minister for this meeting. The chairman of the Backbencher's Club at that time was then deeply implicated in a major controversy involving the construction of a multi-billion ringgit industrial area, the Port Klang Free Zone scandal. For a comprehensive review of this scandal see Lee and Lee (2012).
7. Nazir contended that he thought that this money had come from donations he had helped solicit from Malaysian companies and individuals (Reuters, May 18, 2016).
8. Press statement by Najib Razak, Prime Minister's Office, August 14, 2015.
9. Paul Low's radio interview about the work on this matter can be heard at: <https://www.bfm.my/breakfast-grille-yb-senator-datuk-paul-low.html>.
10. For the full set of political reform recommendations by these NGOs, see: https://media.wix.com/ugd/471d06_40104a0273ce4400a326e1b7b8039de0.pdf.

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