

# Assessing the General Election –What Will the Outcome Demonstrate and What Lies Ahead

## Discussion Panel- Policy Recommendations

Kuala Lumpur, Malaysia

10 February, 2012



### **Discussion Panel Summary:**

A few issues emerged from the discussion panel held in the afternoon of Friday the 10<sup>th</sup> at the casual environment of Leonardo's Dining Room and Wine Loft. The speakers were asked to give their opinion on the outcome of the upcoming 13<sup>th</sup> General Election, and at the same time comment on what they view as obstacles to a fairer, more democratic, and more open political system.

The speakers, who at times concentrated on predictions for the election, but at times chose to concentrate on major issues that seem to plague Malaysia's electoral system and the various processes by which the country is governed, identified various themes for revision and significant improvement.

In brief, the main points that were mentioned are the following:

On predicting the general election results:

- *The BN will once again win, however with significant losses and reduction of its majority margins.*

- *The PKR is not yet strong enough or cohesive enough to convince voters of its ability to administer the country.*
- *Sub-national issues rather than national ones will determine the outcome of the elections.*

On raising concerns on the major issues of this country's governing system and electoral system:

- *The electoral system needs to be reformed*
- *There is a need for local elections*
- *Constitutional changes are necessary in order to have independent regulatory bodies*
- *Bills and policies drafted and passed in Malaysia need to follow international standards, content-wise.*

### **Recommendations:**

The CPPS would agree with the opinions of the discussants and participants. In this brief write-up, we would like to provide some insight on how we think these issues may be resolved.

1. *The PKR is not yet strong enough or cohesive enough to convince voters of its ability to administer the country.*

Similar with any coalition formed, a clear stance is necessary by the Pakatan Rakyat on every major, at least, issue of policy making, especially in the national landscape. Such plans should cover the areas of education, health, the economy, social cohesion, defence, and foreign affairs, among others. The buku jingga represents at the moment the common agenda of the PKR; however, it does not seem to provide adequate information, especially on some major issues of defence, foreign policy, and healthcare. The public needs to be in a position that can compare like for like, i.e. compare the current government's stance on various policies and their plans to carry them out, with the proposed opposition ones. Only then will the public be able to make a truly informed decision, based on rational consideration of the new policy approaches recommended by the opposition. The Pakatan Rakyat has only had some experience in running state governments, but not really the whole nation. Having said that though, the PKR seems to be doing well in their task of running the states of Selangor and Penang, thus giving a positive expectation. Even so, they need to prove that they have a very detailed, specific plan on how to proceed, should they win the next elections. Furthermore, they need to permanently have a shadow cabinet that would be in a position to have the knowledge necessary to take over should they win, rather than having to spend time learning the workings of each sector.

## *2. Need for independent regulatory bodies*

Malaysia is often perceived as a nation that has gone down the wrong path for too long in terms of corruption. In fact, corruption is so deeply ingrained in the system, that the government is losing the trust of the populace because of it. There is dire need for revision of the system in order to fight corruption once and for all, in addition to the need to change the attitude of all Malaysians on corruption. Corruption is indeed not merely a dent on the nation's morality, but also a burden that slows down economic advancement of the nation.

As a major step towards fighting corruption, Malaysia is in dire need of truly independent regulatory bodies that follow clear guidelines and procedures when investigating a particular case. The country needs bodies that are, firstly, willing to identify, investigate and punish individuals that may be involved in scandalous cases of corruption. In order to do so, transparency of information is highly crucial. As such, these bodies should be allowed access to all relevant information, in order to draw the right conclusions. Furthermore, they need to be in a position to suspend individuals under investigation and isolate them from their environment, so that investigations can proceed without the individual influencing his/her environment.

However, for all this to be implemented thoroughly, the independence of such bodies, as well as their overseeing by international organizations is crucial. And the judiciary of the nation should have the independence to prosecute and carry on investigations on any given individual, independent of who this individual may be.

## *3. The electoral system needs to be reformed.*

The electoral system as is, has evidently many flaws that contribute to the issue of misrepresentation in government. Transparency is a major issue in the current system. We would like to refer to Bersih 2.0's points for the reform of the present electoral system, as they identify the main areas of the system that need to be looked at. These include ensuring a 'clean', accurate and updated electoral roll, a reform of the postal ballot system to ensure its integrity and that it provides uncompromised results, the use of indelible ink in order to avoid voter fraud, the establishment of a minimum of 21 days of campaign period prior to elections, free and fair access to media, the strengthening and independence of public institutions, a halt of corruption, and finally, a stop of dirty politics.

On top of that, we would like to add that the system is not inclusive enough. For example, the public needs to be over 21 to be eligible to vote. Furthermore, there are plans to exclude from the voters' registration roll those that are Malaysian citizens but reside abroad, and therefore do not pay taxes in Malaysia. The government of the day, under the existing system does not have a clear mandate to rule, simply because, even though it has won the

majority of those that voted, because of low turnouts, this does not represent the majority of all Malaysians.

Furthermore, electoral boundaries lead to somewhat unfair results. Under the current electoral system of First Past the Post that applies in Malaysia, each constituency, regardless of population size, can elect one representative to be a Member of Parliament. However, these constituencies have large variations in terms of size among them, and therefore make the results unrepresentative and unfair. Finally, the need to have a fixed date for General Election is necessary, in order to avoid political manipulation and reliance on a single individual for such an important decision. For each of these issues, we propose:

- Inclusivity:

The issue of inclusivity is not that easy to solve, as it would require a range of constitutional changes. Having reached the age of twenty-one years is a prerequisite in order for an individual to vote, stated in the constitution under article 119. Amending the constitution is of course possible, however significantly difficult and requires a strong support for any such amendment. However, we do believe that it is important to increase inclusiveness in the voting process. With the advent of technology and the rising standard of living in Malaysia the younger generation is increasingly more aware of issues around them, including politics as well. It is thus important to give them an avenue to express their opinion, through allowing them to vote earlier. Many countries around the world, including the more democratic ones have the age of 18 as voting age. The results in such countries are mixed –it is hard to prove that the youth makes the right decision at such an age. However, given that voting is not compulsory, it gives the opportunity to those that are mature enough and interested to exercise their right to vote and therefore participate in the political arena of their country, without forcing everyone above 18 years of age to vote. If nothing else, it might motivate young adults and make them feel important, as their opinion on who is running the country will also be accounted for.

As for the issue that was discussed on disqualifying Malaysians that live abroad and therefore not paying taxes to Malaysia from being eligible to vote, this is much easier to sort out, as it is a policy that is only now in the process of being implemented. The constitution clearly states that ‘every citizen who, ... is a resident in a constituency on such qualifying date or, if not so resident is an absent voter, is entitled to vote in that constituency’ (article 119). It is therefore clear that any Malaysian citizen, residing within Malaysia or abroad is eligible to exercise their right to vote. A policy therefore that would restrict this right would be unconstitutional and impede the citizen’s rights. It should therefore not be implemented.

- Increasing mandate to rule:

Increasing the mandate of any government to rule has to do with the electoral system, as well as voter turnout. The First Past the Post system prescribes a majority win of seats rather than a total percentage of votes for a party or coalition to form a government. The system

has many flaws, however all electoral systems do, and changing the system would be extremely complex. The issue here, therefore, needs to be resolved by increasing voter turnout. There are countries around the world that make it compulsory for all citizens within voting age to vote. However, there are some disadvantages with such an approach. Under such a system, voters vote merely because they are forced to and there is a punishment system for those that do not. Thus, they do not care so much on being informed voters. It might lead to an increase of blank votes, or voting for a particular party or individual based on reasons other than support of that party's/individual's policy approaches, such as the voter's family's historic party support affiliations, and voting on merely superficial justifications. Switching to a system of compulsory voting would therefore increase voter turnout, however may lead to apathy among voters, and once again, misrepresentation.

In an ideal world, everyone is free to vote, however everyone should vote rationally, taking into account all factors to make a decision on who to vote –the individual candidate's character, but most importantly its plans for policy making, his strength of conviction and willpower, and his stance on the major issues that would affect a voter's everyday life, as well as the life of his/her neighbours and children. Thus it is crucial, in order to increase awareness, as well as voter turnout and therefore the mandate to rule, to resort to a different method. And that method may well be a long-term solution to the problem. Namely, increasing awareness on issues of politics, through public campaigns, informed presentations of each party's policies, and education of the populace. The voters need to understand why it is important for them to vote, and at the same time be provided with all the necessary information for them to make the right decision. Therefore through the education system, young children and teenagers can be instilled the importance of politics and elections, as well as Malaysia's political system, and be encouraged to follow current affairs and the various political parties. A thorough process of scrutiny from the public will keep all parties on their toes, as well as encourage higher voter turnout.

But education alone is not enough. The media have a large role to play, as they need to provide objective and detailed information to the public. And the political parties themselves should lay out their stance and policies on each areas of concern clearly, so that the public can make informed decisions. Perhaps the problem of low turnout in Malaysia is because of the disenchantment of the public. Because of this lack of sources of objective, clear information, voters cannot make informed decisions –it is only natural therefore that lack of interest in politics as well as absenteeism from the electoral process are so frequent here. The mandate to rule requires more people to participate in the process of electing the government, and the way to achieve this is through education and availability of free, objective information.

- Electoral boundaries:

Electoral boundaries refer to the issue of the irregular size of constituencies, population-wise, either because of gerrymandering or merely by chance. Right now, there are 222

constituencies in Malaysia. These constituencies however have vast differences in terms of the number of people each of them comprises of. There are therefore some constituencies with a very small number of population and some with a significantly larger one. Given that each constituency is represented in the House of Parliament by only one representative, the system is quite unfair, since the smaller constituencies may get better representation as their Member of Parliament is in a position to focus on the needs of a smaller community, and therefore represent them more effectively. For larger constituencies, however, the representative is not in a position to 'keep everyone happy' as the larger number of constituents means that his attention is split between a larger range of issues. Furthermore, each Member of Parliament enters the legislature with a different mandate – some are there because a few hundred people voted for them, and some others because thousands voted for them. It is therefore unfair to have some representatives that only have to convince a few voters to vote for them, whereas others need to convince thousands. Thus, we believe that a revision of constituency barriers is necessary, in order for each constituency to have a similar population size. This would be the job of the Election Commission, and to avoid manipulation of results, constituencies should be randomly re-specified, according to population size and not political orientation.

- Fixed date for federal general election:

Applying a fixed date for federal general election is a benefit for all parties involved. Not only all parties involved but also the public, know when to expect an election and can therefore prepare accordingly, but a wisely prescribed time period before another election would lead to fixed term that would allow better planning for the workings of the executive and the legislature. A period of 4 years, or 5 at most would be ideal. The US is a country that has benefited from a fixed date and time period in between for general elections. Of course a change like this would require a constitutional amendment, but it is worth pushing for. On that, we would also like to see a restriction on the same individual holding the position of the Prime Minister for no longer than two consecutive terms. The same party can be reelected, of course.

#### *4. There is a need for the reinstatement of local elections*

Currently there are no government local elections in Malaysia. As such, we have a strange situation where the members of parliament from a particular constituency are from one political party, but the local governance is in the hands of a different party appointed by the government. This is not to say that the candidates for federal and local positions should be from the same party necessarily; however, it shows a paradox that exists right now in the Malaysian political system. In many ways, municipality level of governance has a more direct impact on the people – therefore, the people should be able to elect their representatives at that level as well. Municipal elections are therefore an important step towards the right direction.

Local government has a long history in Malaysia. Elections to local councils began in 1950, and in 1960 the Local Government Elections Act was passed. However, in 1965, the government declared a state of emergency and following the Emergency Act 1964, the Emergency (Suspension of Local Government Elections) Regulations 1965, and the Emergency (Suspension of Local Government Elections Amendment) Regulations 1965 were passed, ending local government elections. Even though there are no local government elections held in Malaysia, the Local Government Elections Act 1960 has never been repealed and remains in the statute books until today. What needs to be done therefore is to repeal the Emergency Ordinance and regulations connected to it, and reinstate the Local Government Elections Act of 1960.

*5. Bills and policies drafted and passed in Malaysia need to adhere to international standards.*

Malaysia is a democratic society that aspires to be open and progressive. As such, when the government of the day is drafting bills and policies, they should attempt to follow examples of other governments that have a similar policy in place and seems to be working. One of the stronger advantages of globalization and integration is this freedom of information and the willingness of nations for exchange of ideas, perspectives and experiences. Therefore, bills such as the Peaceful Assembly Bill should not only follow policies from other countries by merely having a similar name, but also by content. It is important to learn from each other and try to emulate good examples of policy making, not merely by having a similar name, but also by having a similar content and ways of implementation.

On the procedure that needs to be followed for passing a Bill, there are certain steps that need to be taken. Following the UK, a country that Malaysia's political system is emulating, the first of these steps is the formulation of the Bill, where ministers and civil servants are involved. On many occasions, the details are decided by civil servants that are experts on the issue that the Bill addresses, and parliamentary Counsels actually draft the Bill. However, before drafting the Bill, a period of consultation should precede, where a green or white paper is published and the public is given the opportunity to comment, make suggestions and recommend solutions, through their MP. For a Bill that is deemed very important, many groups need to be consulted, in order for the government to get their viewpoints, but also convince them on the necessity of the Bill. Such groups include experts on the field, Treasury officials if there are financial implications, trade union leaders, civil societies, MPs, trade organizations, etc. After such consultations, it is necessary to publish a draft of the Bill, to allow the public to see how the final Bill would be like. The Bill then goes to the House of Parliament for its first reading, and might be passed then. The first reading is the first official presentation of the Bill, and it therefore gets a second reading, in order for the MPs to have access to all the details and be able to analyse it thoroughly. After the Bill goes through the second reading, it goes through the Committee Stage, which is the most thorough review of the proposed Bill. This is a standing Committee comprised of cross-party

MPs, about 18 to 25 altogether. They are the Minister along with his/her Junior Ministers that are pushing for the law, the opposition ministers, and other members that are deemed to have experience on the particular issue the Bill addresses. The committee meets a number of times, depending on the degree to which the Bill is controversial, and after its decision, the Bill moves on to the Report stage. Amendments are made, and a Third Hearing is arranged. After this, the Bill moves on to the upper house, where it follows a similar procedure. If the upper House makes amendments, the Bill is returned to the Lower House and if the amendments are accepted, the Bill becomes a law. If not, and there is no agreement reached between the two houses, the Bill dies.

In Malaysia the process is not as thorough. The process described above, albeit long and time consuming, ensures that every part of the proposed law would be beneficial for the citizens of the country. It is important to follow a proper process and procedures to ensure the detailed examination and allow all groups to have an input through consultation. In Malaysia it seems that political decision precedes and drives the whole process, often sidestepping many of the stages described above.

There is clearly much to be done in Malaysia. This panel discussion merely touched on the tip of the iceberg. However, it did highlight some very crucial issues that we believe will need a strong conviction and willpower, but are not impossible to implement. With a little more faith on the goodwill of Malaysians and a decent attempt by the government, whoever the party in office may be, much can be done to sort out the many issues that burden the Malaysian electoral system in particular.