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Time is (poli)ticking

Malaysia's Race for Urgent Institutional Reforms Ahead of the 15th General Elections

Noor Netusha Nusaybah

It has been a very tumultuous few years in Malaysian politics. When Ismail Sabri bin Yaakob became the country's ninth Prime Minister almost one year ago in August 2021, it was the third change in government in just a little over three years. The political instability has harmed the country in many ways and caused a political fatigue amongst the population that still finds itself longing for political reforms. Finally, after significant delays in its tabling, last week on 28 July 2022, the Anti-Party Hopping bill was passed in parliament, restricting parliamentarians from switching between political parties, thus addressing one of the biggest challenges for stability in Malaysian politics. But even though at this point no date has been set yet for the next General Elections, time is ticking for most of the promised reform agenda.

A little more than four years ago, in May 2018, Malaysians went to the polls and decided to take a chance on the Pakatan Harapan coalition (translated: Alliance of Hope) to govern at the federal level for the very first time - leading to the fall of the Barisan Nasional regime (translated: National Front) after its six-decade rule. Only 22 months into implementing its promised reform agenda, the Pakatan Harapan government's five-year mandate was cut short by internal political infighting, now referred to in Malaysia as the "Sheraton Move".

With the unexpected shift in party allegiances at the beginning of the COVID-19 pandemic, Malaysians started to witness the nation's worst political crisis in decades. The sudden resignation of two-time former Prime Minister, Dr Mahathir Mohamed during the week-long political impasse in February 2020 resulted in Muhyiddin Yassin becoming Malaysia's new political leader, with the renewed UMNO-led coalition known as Perikatan Nasional (translated: National Alliance).

The political developments since this outcome have been volatile as members of political parties continuously demonstrate divided loyalties. In efforts to establish political stability, a disputed national emergency proclamation was made in January 2021 resulting in the suspension of parliamentary sittings for months to come. However, the internal power struggle between the key parties of the Perikatan Nasional, Bersatu and the United Malays National Organisation (UMNO) led to the erosion of Muhyiddin's legitimacy, making way for a third change in government within just a little over three years, with Ismail Sabri becoming Prime Minister in August 2021, and thus a return of Barisan Nasional.

A 'ticking time bomb' election

In the face of a very ambiguous political reality, the three coalitions, Pakatan Harapan, Perikatan Nasional and Barisan Nasional signed a "Memorandum of Understanding on Transformation and Political Stability" (MoU) in September 2021. According to Ismail Sabri, the agreement would ensure all political differences would be put aside momentarily to prioritise bipartisan cooperation towards Malaysia's recovery from the effects of the COVID-19 pandemic. A wide range of institutional reforms involving the judiciary, parliament and commissions were promised in the MoU. One of the key points included that the government would not dissolve parliament before 31 July 2022. This suggested that the 15th General Election would not occur until at least August 2022, reducing the likelihood of "snap elections". This is despite expectations lingering that UMNO wants to ride the wave of its victories in the recent state elections in Melaka in November 2021 and Johor in March 2022, and before the stability of Ismail Sabri's regime appears shaky.

The chief focus of the bipartisan cooperation was for both sides to guarantee the passing of key legislative reforms such as restrictions on party-hopping, automatic registration of voters upon turning 18 years old, equal funds for ruling government and opposition, and limiting the Prime Minister's term to ten years. However, various Members of Parliament (MPs) and civil society organisations (CSOs) have raised concerns that key institutional reforms have been excluded from the MoU. For instance, Transparency International Malaysia noted the three key reform areas include the Political Financing Bill, the separation of powers between the Attorney-General and Public Prosecutor, and the constitutionalisation of the Malaysian Anti-Corruption Commission (MACC).

Parliament had initially appeared torn on passing the Anti-Party Hopping bill as seen in significant delays in its tabling. However, on 28 July 2022, a total of 209 out of 222 MPs voted to pass the bill, restricting MPs from switching between political parties in a whim. Some MPs were also not hesitant to express their opposition to the law, and even decided to defect to newly formed splinter political parties. Analysts suggest that there will be more defections of party members in the months approaching the 15th General Election. Some members of the opposition front expressed that it is imperative that the Anti-Party Hopping bill is urgently passed before the elections to prevent a victor that has a small majority as it would incentivise more politicians to switch parties again - continuing the "chaos" that Malaysian voters have been witnessing in the last few years.

After months of insinuations and speculation about the MoU's expiry date, the Prime Minister finally announced that UMNO has decided against its extension beyond 31 July 2022, but has reassured members of the opposition that the federal government will continue to cooperate on matters that were previously agreed upon. Analysts suggest that this move is a clear indication that the 15th General Election is going to be held soon. Although Ismail Sabri was pressured by some UMNO members to dissolve parliament as soon as possible, it cannot be denied that Malaysia's democratic future does not simply rest on calling for elections for the sake of it. Nonetheless, there have been some indicators that suggest the push for reforms is perceived as the only hope for the future of any Malaysian political coalition, regardless of their alignment, to secure a two-thirds majority in the upcoming 15th General Election.

Institutional reforms as a renewed electoral promise

According to a recent national survey, fewer Malaysians believe that their country is moving into the right direction and indicate waning confidence in existing political parties. The survey

showed the rising public dissatisfaction as reflected in the increase of percentage points of Malaysians motivated to vote for new and different political leaders in the next general elections. Moreover, key reform issues that were of interest to survey respondents include national unity, judicial and parliamentary independence, electoral reform, and political financing. In fact, the survey revealed that 73 percent of Malaysians want to see the phenomenon of party hopping be addressed through legislation. Undoubtedly, this survey indicates a growing appetite for institutional reforms in the public sphere as the instability of Malaysia's political climate ensues.¹

Today's crisis is characterised by unresolved power struggles within the ruling Barisan Nasional coalition. Political party defections have become the chief factor in predicting bleak outcomes for the future of Malaysia's democratic processes. Veteran UMNO lawmakers have become ardent advocates of the Anti-Hopping Law, appealing to their fellow party members to support the passing of the bill on the basis that Barisan Nasional can only win a two-thirds majority in the next general election if they deliver on reforms. In fact, Prime Minister Ismail Sabri's call to reform "archaic" laws was considered "the perfect opportunity to hasten legal reforms and procedures".

When the Pakatan Harapan coalition came into power in May 2018, its election manifesto "Buku Harapan" (translated: Book of Hope) pledged to implement 19 promises of "institutional and political reform" within five years. During Barisan Nasional's 60-year tenure as government, the laws that were enacted focused on enhancing national security and public order such as the Security Offences (Special Measures) Act 2012 (SOSMA) and the Prevention of Crime (Amendment) Act 2015 (POCA). Ismail Sabri's administration too, seems to remain steadfast in this agenda as seen with the re-tabling and passing of an amendment to SOSMA that allows for a 28-day detention period. Such laws became the subject of controversy to Pakatan Harapan and human rights activists due to their constraints on fundamental liberties such as freedom of speech, freedom of association and the right to peaceful assembly. Intriguingly, the Barisan Nasional of today has demonstrated its commitment to realising a significant number of these promises before the next general election can be called. So what could be the reasons for Barisan Nasional's changing attitude towards the institutional reform agenda?

It could be argued that institutional and political reforms serve as concessions to reduce the likelihood of forming another minority government and thus, creating conditions for a more politically stable environment. Although the last four state elections indicate that Barisan Nasional might be on route to winning the next general election, there are concerns that emerge with their popularity rate being only between 40 and 43 percent. As witnessed in the collapse of the Perikatan Nasional government with Muhyiddin Yassin's resignation after only 17 months in government, there are currently no existing provisions for a minority government to be stable enough for effective functioning of institutions in Malaysia. Such a situation in parliament might not be as ideal as some might hope due to the opposition objecting to the efforts of the marginal majority. A Confidence and Supply Agreement (CSA) would resolve the challenges faced by prospective minority governments because it would ensure the support of MPs from independent and opposition parties to pass expenditure bills and other necessary legislation. However, Malaysia remains an exception amongst Westminster-style democracies for not having a CSA until today, as there have been no follow-up discussions on this since August 2021.

Without any legitimate means for a minority government to fulfil their mandate within their elected term, how would Malaysia's political coalitions secure a two-thirds majority in the 15th

General Election? The great uncertainty about the timing of the next elections means that political parties remain on a permanent campaign footing, especially in their relationship with the Malaysian public.

Outlook

While the previous generation of Malaysians sought to materialise democracy as the aim of their political participation, both the public and elected officials today are primarily concerned about the deficits in the existing political system that became visible with the multiple changes of Prime Ministers in a span of only three years. Should Malaysia not witness reforms that increase the access of its citizens to meaningfully participate and experience accountability in institutional processes, the danger could be the persistent escalation of distrust towards democratic institutions and elected public officials.

Therefore, both political coalitions and the government of the day need to urgently take steps to internally evaluate and transform their campaign promises and policymaking strategies to provide genuine opportunities for public demands to be taken seriously. More importantly, the implementation of the Anti-Hopping bill upon its passing will become a major factor for all Malaysians to regain trust and confidence that their political representatives are committed to fostering an inclusive, sustainable and thriving social and political climate. The future of Malaysia's democracy rests on the political will of its ruling regime, and the growing appetite to build a system renewed by political and institutional reforms.

¹ Center for Insights in Survey Research (2022). "Public Opinion Poll: Residents of Malaysia", International Republican Institute, 17 May 2022, <https://www.iri.org/resources/public-opinion-poll-residents-of-malaysia-march-2022/>

Konrad-Adenauer-Stiftung e. V.

Noor Netusha Nusaybah
Project Assistant, KAS Malaysia Office
www.kas.de/malaysia

Netusha.Nusaybah@kas.de



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