MALAYSIA

REPORT OF THE 1999 ELECTION OBSERVATION MISSION

25 NOVEMBER - 1 DECEMBER

ASIAN NETWORK FOR FREE ELECTIONS
(ANFREL)

ASIAN FORUM FOR HUMAN RIGHTS AND DEVELOPMENT
(FORUM-ASIA)

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Asian Network for Free Elections (ANFREL)
and
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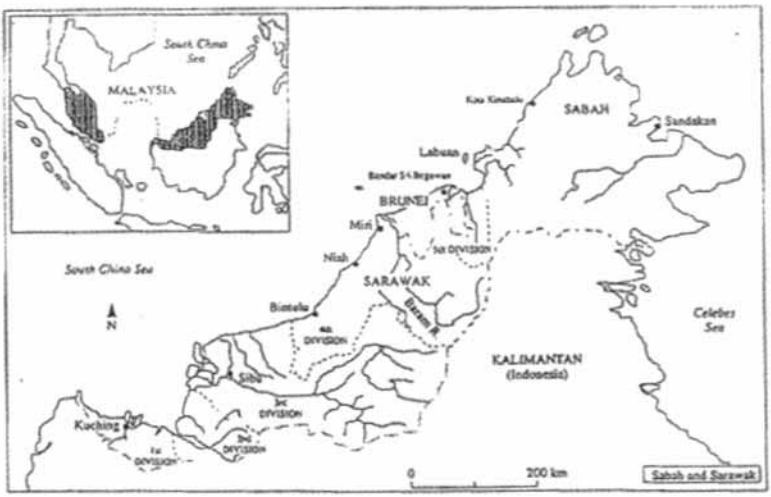

Preface

ANFREL is a regional network of election monitoring and human rights organizations with a fundamental mandate to support democratization and the consolidation of democracy in Asian countries.

Concerned about the situation of our neighboring Asean country, ANFREL during the general elections in Malaysia, extended its support by organizing an observation mission in order to help ensure a democratic election in the country.

Since the success of an election monitoring mission would only be possible with cooperation from the Malaysian government, a message was officially conveyed to the Election Commission that the presence of international observers would help ensuring integrity and transparency in the administration of electoral process. Although a role proposed by ANFREL is not stipulated in the Election Law, the Election commission chairman Datuk Omar Hashim expressed no objection to the deployment of ANFREL observers in the 10th general election of Malaysia at both national and provincial levels.

The presence of international observers is not stipulated in the Malaysian Election Laws, however, NEC Chair Omar Hashim, announced publicly that while Malaysia would not invite foreign observers to monitor the elections, it would not stop them from coming.

It is from these premises that ANFREL decided to send international observers to monitor the general elections. Thirteen observers came mainly from the Asian countries with friends of Asians from two international countries i.e. Finland and Canada. They were deployed in eight provinces together with local observers.

This book presents the results of the findings with the corresponding analysis and recommendations of the observation mission in areas where ANFREL observers were deployed with the sincere hope of providing awareness to the Malaysian people and the people in the Asian region on what transpired during the elections and to give them an idea in pursuing democratization efforts in the country.

This book wishes also to inform the Malaysian governments of our findings and recommendations for future improvement in administering elections.

ANFREL, with its efforts in this observation mission, presents this book to the public as an expression of solidarity to our neighbor country and a learning message to all of Asian countries in pursuing our struggle for human rights, peace and democracy.

General Saiyud Kerdphol
ANFREL Chairperson

Auxilium Toling-Olayer
ANFREL Coordinator

ACKNOWLEDGEMENTS

ANFREL deeply appreciates the cooperation and support extended by member organizations, individual representatives , and institutions in their solidarity and financial support to make this observation mission a success. Our sincere thanks to all those who made their most needed contributions. Below are the lists of all those who supported the observation mission:

- Member organizations who participated in this mission e.g. Bangladesh (ODHIKAR), Indonesia (KIPP), Philippines (IPER), Thailand (The Nation and Institute of Asian Studies), Nepal (NEOC), Japan (Interband), Hong Kong-based organization (AHRC).

- Asian friends who always supported us in all our missions : Finland (Finnish League of Human Rights) and Canada (CHRF).

- Local organizations who assist us in various ways of the mission: members of BUDI – MCEW. Special thanks to Puan Kamar Ainiah Kamaruzaman, Dato Wan Abdul Majid Abdullah, and Kamaru Osman and all their staff.

- The resource persons of the mission briefing: Puan Kamar Ainiah Kamaruzaman, Dato Wan Abdul Majid Abdullah, and Kamaru Osman , Encik Ahmad Faiz Abdul Rahman and Premesh Chandran.

- The National Election Commission Commissioners and staff who allotted their busy time to meet us and share their views on the elections

- The local media who attended our press conference and has covered our mission and published it in their news dailies

- The political parties who have shared their views on the election process

- To those who helped prepare this book, especially to Ms. Vikki Andreghetti; also to Sunai Phasuk for his intellectual contributions; to Steve Beeby for his technical assistance; and to Dan Chirpich for layout and final proofreading.

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- To the members of the steering committee under the leadership of General Saiyud Kerdphol , in their efforts in leading the mission and the untiring efforts of the organizers of the observation mission

Most importantly, our sincere thanks to SEAFILD who has continuously helped us and trusted their support to almost all our missions.

Abbreviations

Political Parties

BA	Barisan Alternative (Alternative Front)
BN	Barisan Nasional (National Front)
DAP	Democratic Action Party
Gerakan	Gerakan Rakyat Malaysia (Malaysian People's Movement)
KEADILAN	Parti Keadilan Nasional
MCA	Malaysian Chinese Association
MIC	Malaysian Indian Congress
PAS	Parti Islam SeMalaysia (Malaysian Islamic Party)
PBS	Parti Bersatu Sabah (Sabah United Party)
PRM	Parti Kakyat Malaysia
UMNO	United Malays National Organization

Other Acronyms

ANFREL	Asian Network for Free Elections
BUDI	United Towards Democracy and Humanity
ISA	Internal Security Act
JUST	Just World Trust
MCEW	Malaysian Citizen's Election Watch
NDP	New Development Policy
NEP	New Economic Policy
SPR	Suruhanjaya Philihan Raya Malaysia (Election Commission of Malaysia)
SUARAM	Suara Rakyat Malaysia (Struggling for Human Rights in Malaysia)

BACKGROUND TO THE 10TH GENERAL ELECTION IN MALAYSIA

Country Profile[1]

Situated partly on the Malay Peninsula and partly on the island of Borneo, Malaysia consists of eleven states of the former Federation of Malaya (Peninsular or West Malaya), as well as the states of Sarawak and Sabah (East Malaysia). Mainland Malaysia is neighboured by Thailand to the north, and Singapore to the south, with Sarawak and Sabah sharing a common border with the Indonesian province of Kalimantan on the island of Borneo. Malaysia's population (21,376,066 – July 1999 est.) is multiracial in composition, with a Malay majority (46 percent), followed by Chinese (32 percent), non-Malay *bumiputras* (12 percent), Indians and Pakistanis (8 percent), and others (2 percent). Although the Malay-based Bahasa Malaysia is the official language, English, Tamil, indigenous languages and several Chinese dialects are widely spoken as well. Malaysian's official state religion is Islam. However, the freedom to profess other faiths is constitutionally guaranteed. Minority religious groups include Hindus, Buddhists, and Christians.

Malaysia gained independence from Britain on August 31, 1957. The present federal constitution of Malaysia established a federal system of government under an elective constitutional monarchy. Malaysia is subdivided into thirteen states and the federal territory and capital, Kuala Lumpur. Each state has its own constitution and a unicameral State Assembly that shares legislative powers

with the federal Parliament. The supreme head of the federation is the paramount ruler (*Yang di-Pertuan Agong*), who is elected for a five-year term by and out of the sultans, and exercises the powers of a constitutional monarch in a parliamentary democracy. Executive power is vested in the prime minister and cabinet, who are responsible to a bicameral legislature consisting of a partially appointed Senate, and an elected House of Representatives. Judicial power is vested in a Supreme Court, with subordinate High Courts in West and East Malaysia. Malaysia's legal system is based on the English common law. Judges of the Supreme Court are appointed by the paramount ruler on the advice of the prime minister.

The federal Parliament is a bicameral body consisting of a Senate and a House of Representatives. The Senate (*Dewan Negara*) consists of 43 appointed members and 26 elected members, who are elected by the thirteen state legislatures for six-year terms. The Senate is never dissolved, but rather new elections are held by the appropriate state Legislative Assembly as often as vacancies among the elected members arise. The House of Representatives (*Dewan Rakyat*) is composed of 193 seats: 145 from Peninsular Malaysia (including 10 from the Federal Territory), 28 from Sarawak, and 20 from Sabah. The term of the House is five years, subject to dissolution. Elections are by universal adult suffrage.

Political parties and election history

Since independence from British colonial rule in 1957, elections have been regularly held in Malaysia within the five-year period provided for in the Malaysian federal constitution. Malaysia's predominant political party, the United Malays National Organization (UMNO), has held power in coalition with other

parties for 42 years, since independence. The current incarnation of the ruling coalition, the *Barisan Nasional* (National Front) is composed of 14 parties representing the country's leading ethnic groups, including UMNO, the Malaysian Chinese Association (MCA), the Malaysian Indian Congress (MIC), and the multi-racial Gerakan Rakyat Malaysia (Malaysian People's Movement). Prime Minister Dato Seri (Dr.) Mahathir bin Mohamad, was sworn in as prime minister for the first time on July 16, 1981, following the resignation of Datuk Hussein bin Onn, and formed the government on July 18, 1981. Prime Minister Mahathir formed new governments successively in 1982, 1986, 1990, 1995 and again in 1999, making him Asia's longest serving elected leader.

During the 1995 parliamentary election, the BN scored a landslide victory, capturing 162 of 192 seats on an unprecedented vote share of 64 percent (as compared to 53 percent in 1990). The opposition failed to secure representation in seven of the eleven peninsular states.

In 1999, four main opposition parties, including the Democratic Action Party (DAP), the Parti Rakyat Malaysia (PRM), the Parti Islam Se Malaysia (PAS) and the Parti Keadilan Negara (Keadilan) (Natural Justice Party), united to form the Barisan Alternative (BA) coalition.

Including the foregoing, there are more than 30 registered political parties in Malaysia.[2]

Economic policy

In 1991, Prime Minister Mahathir introduced the New Development Policy (NDP) as successor to the New Economic Policy (NEP) which had been implemented in the 1970s and 1980s. The NEP, first established in 1971, sought to eradicate poverty and end the identification of economic function with ethnicity, and was designed to enhance the economic standing of ethnic Malays and other indigenous peoples (collectively known as *bumiputras*, or "sons of the soil"). Aimed at transforming the country into a fully developed state by the year 2020, the new NDP plan contains many of the NEP's goals, though places less emphasis than on transferring corporate assets to the *bumiputras*, while providing added incentives for both foreign and domestic investors.

Political issues

The multi-ethnic and multi-religious composition of Malaysia's population has traditionally been a prime focus of political, economic and social policy within the country. Each has purported to seek the minimization of the tensions and problems often created by such diversity, exemplified for instance in the Malaysian race riots of 1969. The BN (and its leading member UMNO) has been seen by some as having best been able to harness Malaysian racial and religious sensitivities to power its political machinery. More specifically, through the multi-racial and religious representation of its member parties, the coalition has been able to field candidates representing the dominant ethnic group of any number of constituencies. As seen in previous elections, and in the lead up to the 1999 general election, BN political propaganda has largely played on fears of racial and religious confrontation and violence, with the claim that not only has been able peacefully unite

Malaysia's racial and religious groups, but that it is the only party able to continue to guarantee and provide for that stability in the future.

In the months prior to the election, several leading opposition parties, including the Chinese dominated Democratic Action Party (DAP), the Parti Rakyat Malaysia (PRM), the Parti Islam Se Malaysia (PAS) and the Parti Keadilan Negara (Keadilan) united to form the Barisan Alternative coalition. The party's formation, spearheaded by former Deputy Prime Minister Anwar Ibrahim's wife, Wan Ismail Wan Azizah, was seen to be fuelled by the dissatisfaction of a number of Malaysians with the government stemming from Prime Minister Mahathir's handling of the sacking and jailing of Deputy Prime Minister Anwar Ibrahim,[3] as well as the increasingly vocal demands for reform with respect to a number of issues, including the independence of the judiciary, the Attorney-General's office, and SPR (*Suruhanjaya Philihan Raya Malaysia*, i.e., the Malaysian Election Commission), the giving out of contracts and tenders by the government of Malaysia, independence of the media, legal reform or repeal of Malaysian laws, (such as the Printing and Publications Act, the Internal Security Act, the Official Secrets Act, the Sedition Act), and the integrity of the electoral process.

The economic crisis

The economic crisis which hit South-East Asia in 1997-1998 played important role in shaping the political landscape and the events of Malaysia's 10th general election. Although the country was not as severely affected as some of its South-East Asian neighbours, the crisis did nevertheless bear serious repercussions within the country. At an economic level, the crisis brought on high inflation rates, a

sudden increase in the price in commodities, and a high unemployment rate. The value of the ringgit dropped sharply, and by the end of 1997 was 35% below its value 12 months earlier. After a decade of 8% average GDP growth, the Malaysian economy declined by 7% in 1998. A number of measures were taken by the government in response to the crisis however, and at the time the election was called, the country's economic recovery was proceeding nicely with 8.1 percent GDP growth in the third quarter of 1999 (as compared with 1.3 percent in the first quarter and 4.1 percent in the second quarter.)

The crisis nevertheless left its mark on Malaysian politics. Although Prime Minister Mahathir was able to fend off the "reformasi" sentiment and protests which eventually led to the downfall of President Soeharto in neighbouring Indonesia, the crisis did lead many to question the country's economic policy, as well as the manner in which the economic pie was and is divided in Malaysia. Part of the DAP's political platform for instance was that Malaysia should abandon policies of positive discrimination intended to improve the economic status of indigenous Malays. Opposition parties questioned the possible impact of cronyism, corruption and nepotism on the nation's economy, future development and capacity to compete in an increasingly globalized market. Perhaps most notably however, the crisis saw months of disagreement over economic policy between Prime Minister Mahathir and then Deputy Prime Minister Anwar Ibrahim, Anwar's eventual sacking, his arrest on corruption and obstruction of justice charges, and the ultimate formation of the BA coalition

The Anwar case

The sacking of Deputy Prime Minister Anwar Ibrahim by Prime Minister Mahathir was another important issue in the lead-up to the elections. Following Mr. Anwar's dismissal in September 1998, a series of demonstrations advocating political reforms in Malaysia, followed. In late September 1998, the former Deputy Prime Minister, along with a number of his supporters were detained without trial under the country's Internal Security Act (ISA). Although Anwar and his associates were later released from ISA detention, Anwar himself remained imprisoned pending trial on four counts of corrupt practices, i.e. obstruction of justice. When he appeared in court shortly after his arrest with a black eye, the result of a beating while in police custody, shock was expressed both domestically and abroad. His first trial, surrounded by lurid and highly public accusations of sexual misconduct, galvanized public opinion and brought many to the streets in unprecedented protests to Prime Minister Mahathir's 18-year rule. In April 1999, Anwar was convicted on all four counts and sentenced to six years. Once again people took to the streets in protest. In June 1999, Anwar's second trial, this time on sodomy charges, began. In the midst of allegations of arsenic poisoning, Anwar appeared in ill health. Hours before Prime Minister Mahathir's election call was announced, the trial's presiding judge suspended proceedings indefinitely due to alleged back pains.

While some dismissed the importance of the Anwar case as an issue in the election, others regarded it as a focal point for the expression of increasing discontentment and dissatisfaction with respect to certain aspects of Malaysian affairs, bringing such issues as the use of the ISA and other restrictive laws, the independence of the judiciary, freedom of the press, and other "issues of the day," to the forefront of the political debate.

Political platforms

In the aftermath of the events described above, the 1999 general election was expected to be the most hotly contested political battle in three decades. While the ruling BN founded their platform on its record of economic development, social stability and promise of continued success, the BA focused theirs on the achievement of political, economic and social reform though "peaceful, democratic means", as well as the building of a new Malaysia on the principles of economic, political and social justice, "free from corruption, cronyism and nepotism." The political battle was thus drawn along those lines: the choice between continued stability and prosperity versus social justice and reform.

Malaysian Laws and the Electoral Process

Article 21 of the *Universal Declaration of Human Rights* provides that the will of the people is to be the basis of the authority of government. The mechanism chosen by the international community for the expression of this will is the electoral process. In order for the valid and genuine expression of this will however, these elections must be what has been termed "free and fair."

The essence of free elections is the extent to which they facilitate the full expression of the political will of the people. Fundamental to this requirement is that elections be conducted in an atmosphere characterized by an absence of fear and intimidation, and in the presence of a wide range of fundamental human rights, including the rights to free opinion, free expression, information, assembly and association, independent judicial procedures, and protection from discrimination.[4]

In Malaysia, these fundamental rights and freedoms are guaranteed at articles 5 to 10 of the Federal Constitution. However, limits to these may be prescribed by law pursuant to article 149 of the Constitution. As such, a number of laws have been enacted in Malaysia which limit fundamental rights and freedoms which have had a notable effect on the political and electoral process in the country. These include the Internal Security Act 1960, which allows for detention without warrant or trial, for up to two years, renewable indefinitely, of any person suspected of threatening the national security or economic life of Malaysia; the Sedition Act 1948 (amended in 1970), which includes a wide definition of the term "seditious tendencies", and imposes limits on public discussions on any issue relating to the guarantees that have been enshrined in the constitution relating to Malay language, Islamic Religion, special rights of the Malays and the special position of the Malay Rulers; and the Official Secret Act 1972 (amended in 1984 and 1986), which seeks to prevent the leakage of secret and classified matters of all public organizations.

Limitations are also imposed by the Printing and Publications Act 1984 which require licenses for printing and publishing of material. These licenses are renewable yearly, and may be revoked at the discretion of the Minister of Home Affairs. In addition, under the Broadcasting Act 1999, the Ministry of Information is empowered to revoke the license of any broadcaster who transmits materials "conflicting with Malaysian values." This act requires a licence for any person to operate broadcasting instruments in public.

Freedoms of association and assembly are also subject to a number of restrictions under Malaysian law. The Police Act 1967, provides police with the powers to deal with the issuing of licences (permits) with respect to public gatherings, as well as the power to impose

conditions, as they deem necessary. As such, political parties and organizations must obtain a permit from police for any assembly of three or more people. This request must be made 14 days in advance of the event. The issuing of the permit is fully within police discretion.

Political participation of students and teachers is limited by the Malaysian University and Colleges Act. Pursuant to section 15(3) of the Act, students and faculty members are prohibited from doing anything which may be construed as expressing support, sympathy or opposition to any political party or trade union.

While an exhaustive review of the laws which restrict rights and freedoms and the effect of these restrictions on the political process in Malaysia may go beyond the scope of this report, ANFREL would like to express its concern as to the manner in which these laws have limited certain fundamental rights and freedoms, hampering political participation efforts of opposition group members especially, and creating a climate of fear in which the conduct of free and fair elections has been made virtually impossible.

Election Declaration

Malaysia's 10th general election was declared on November 10, 1999, following the dissolution of Parliament by Prime Minister Mahathir. Two days later, the nomination date of November 20, 1999, and election date of November 29, 1999, were declared, providing for a campaign period of just nine days.[5]

THE MISSION

Introduction

ANFREL's observation of the 10th general Malaysian election was conducted between November 25, 1999 and December 1, 1999.[6] ANFREL's team comprised of thirteen observers and included academicians, lawyers, journalists and human rights advocates from nine countries in Asia, Europe and North America.[7]

Refusal of Permission to Independent Observers

Despite a request by ANFREL on November 15, 1999[8] to act as international observers to Malaysia's general election, authorities refused to permit ANFREL to do so in a recognized capacity. In a letter dated November 20, 1999, Mr. Datuk Wan Ahmad Omar, Secretary of the Election Commission of Malaysia, denied ANFREL's request to serve as observers with the given reason that no such observers were needed in Malaysia since, it was stated, "elections in Malaysia are conducted strictly according to specific laws on elections. These laws are fair to all parties [...]" and that "[...] since independence in 1957, elections in this country have all been conducted according to requirements of the law. In his letter, Mr. Omar added that: "all candidates who are contesting for seats have their representatives present at the polling as well as at the votes-counting centres throughout the process." Finally, the Election Commission's Secretary stated that similar requests from members of Malaysian NGO's had also been turned down. Election

Commission Chairman Datuk Omar Hashim announced publicly however that while Malaysia would not invite foreign observers to monitor the elections, it would not stop them from coming. As such, it was ANFREL's decision to send an observation mission to Malaysia, notwithstanding the refusal of the Election Commission to grant the organization official approbation.

Briefing of Observers

On November 26, 1999, observers attended an orientation and briefing in Kuala Lumpur on the Malaysian elections.[9] Observers were briefed on Malaysia's social, political and economic situation by Mr. Encik Ahmad Faiz Abdul Rahman, a representative from JUST (Just World Trust), and were led in a joint discussion on the impact of Malaysia's restricted laws and limitations on the freedom of expression, association and assembly, as well as issues of security, culture and religious awareness by Dato'Wan Abdul Majid Abdullah, Mr. Kamarul Osman, Project Manager of Malaysia's

A briefing with all ANFREL observers occured before the election.

election register and by Puan Kamar Ainiah Kamaruzaman, President of BUDI (United Towards Democracy and Humanity). Finally, each monitor was given a particular briefing on the state to which they would be deployed by Mr. Premesh Chandran from SUARAM (Struggling for Human Rights in Malaysia) and the Malaysian Citizens' Election Watch organization (MCEW).

Deployment of Observers

On November 27, 1999, ANFREL observers were deployed throughout 8 states across Malaysia. The deployment took place as follows:

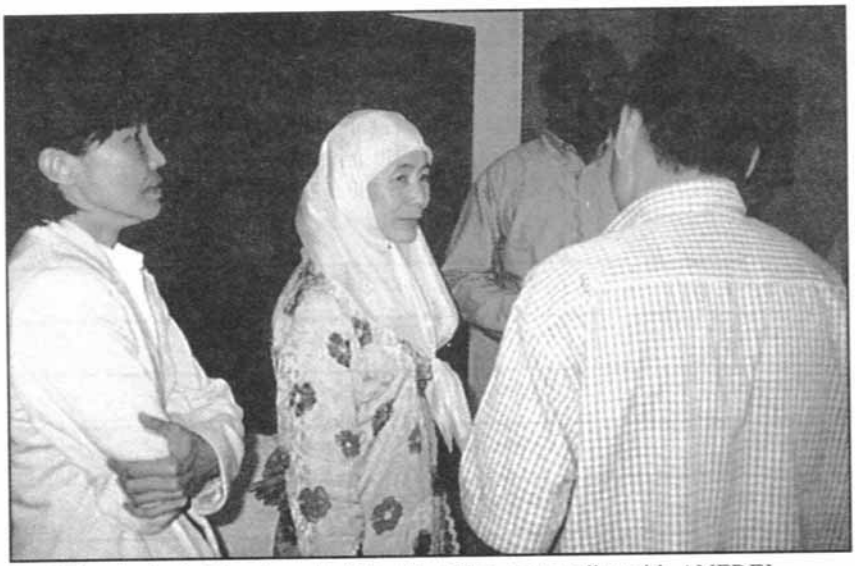
State	Observers assigned
1. Kelantan	Muflizar (Indonesia)
2. Kuala Lumpur	General Saiyud Kerdphol (Thailand), Sushil Pyakurel (Nepal), Taina Dahlgren (Finland), Auxilium Toling-Olayer (Philippines), Somsri Berger (Thailand), Vikki Andrighetti (Canada)
3. Pahang	Sanjeewa Liyanage (Hong-Kong based)
4. Penang	Nurul Kabir (Bangladesh)
5. Perak	Professor Alih Aiyob (Philippines)
6. Sabah	Sunai Phasuk (Thailand)
7. Sarawak	Celakhan Pathan (Thailand)
8. Trengannu	Professor Mitsuru Yamada (Japan)

Meetings and Consultations

Throughout the election observation mission, ANFREL observers met with a number of politicians, party supporters, election officials, human rights workers, NGOs, and voters to discuss the election process in Malaysia generally, and the events of the 1999 election more specifically.

On November 26, 1999, ANFREL observers met with Dr. Wan Azzizah Wan Ismail, leader of the Keadilan opposition party and wife of Anwar Ibrahim, at her residence in Kuala Lumpur, to discuss both the electoral process in Malaysia, as well as her personal experiences as a candidate and opposition party leader.

On November 28, 1999, ANFREL observers met with the Honourable Datuk Omar Hashim, Chairman of the Election Com-



Dr. Wan Azzizah Wan Ismail of the Keadilan party talks with ANFREL.

ANFREL observers met with the Election Commission and the Honourable Datuk Omar Hashim

BUDI members met with ANFREL on Nov. 28 for a briefing and discussion.

mission of Malaysia, along with other Election Commission members, who, despite their decision not to grant ANFREL permission to serve as international observers in a recognized capacity, welcomed the group in a hospitable manner for a discussion on Malaysian electoral laws and practices, as well as some of the criticisms expressed with respect to the validity and fairness of these laws and practices.

Also on November 28, 1999, observers met with members of BUDI (United Towards Democracy & Humanity), a Malaysian NGO responsible for the organization of PEMANTAU (MCEW - the Malaysian Citizens Election Watch) for a briefing and discussion on their organization.

Finally, on November 28, 1999, observers were able to meet with Dr. Tan Seng Giaw, incumbent MP and member of the DAP (Democratic Action Party) to discuss any irregularities relating to the Malaysian elections as well as his experiences as an opposition party member, and his expectations for the election.

ANFREL also requested meetings with representatives from the ruling BN coalition, including, by formal letter dated November 15, 1999,[10] Prime Minister Mahathir Mohamad. All of its invitations however, were declined.

Meeting between ANFREL and Dr. Tan Seng Giaw, the incumbent MP.

MISSION FINDINGS

ANFREL's summary findings are based on the reports of observers in areas where they were deployed for the specific duration of the observation mission. Since the mission was conducted during a limited period, ANFREL relied in part the knowledge and findings of local networks and NGO's with respect to both the background and to the monitoring of the election.

Pre-Election Period

A. Preparation of the Electoral Roll

A key concern of ANFREL which arose in the course of its mission related to the preparation of the electoral roll. During the most recent elector registration exercise in April 1999, some 680,000 new voters took part. Many of these new voters were regarded as young, "reformasi"-minded people, who had newly attained the legal voting age and were seeking their opportunity to participate in the electoral process. Others were seen as people who had never registered themselves before, but felt moved to do so because of the events of preceding months, including the economic crisis and the Anwar case. However, prior to the election, it was announced that the process of registering the new voters[11] would not be completed before January 2000, such that these voters would be ineligible to vote in the November 29, 1999 election.

The Election Commission's announcement was met with criticism. For many, it was difficult to accept that in an era of increasingly improved technology and electronic government, it would take as long as 9 months to complete the registration of qualified voters. Some pointed to the time frame for the completion of registration in Malaysia in previous years, as well as the length of the process in other countries which allow for the registration of voters in a much shorter delay. The opposition argued that the process was conveniently taking a long time because of the very fact that a majority of these newly registered voters were likely to be opposition party supporters; a likelihood all the more important in Malaysia's "first past the post" electoral system.

In response, the Election Commission stated that Malaysia had its unique voter registration laws and process, that by its very nature was a lengthy process (registration of qualified persons, the determination of applications, inspection of the roll, hearing of claims and objections, as well as any appeals, and, finally, certification of the roll), which was made more so by the sheer number of new electors seeking inclusion on the roll. In addition, the Commission pointed out that it had announced even prior to the calling of the election that the process would not be completed before the new year.

However it was brought to ANFREL's attention that while most individuals who had registered in April 1999 were informed that they would not be eligible to vote, others who registered at the same time found their names on the elector list rendering them eligible to vote.

In addition to the issue of voter registration, ANFREL was concerned with the fitness of the electoral roll. ANFREL was informed of complaints ranging from voters who were on the electoral list, but who had not personally registered themselves (contrary to election law)[12], to those relating to the presence of different names sharing the same IC number, missing birth dates, fictitious addresses, and suspicious names (often composed of a mix of letters, number and characters)

B. Constituency Delimitation

A second concern of ANFREL's relating to the pre-election period was the issue of constituency delimitation.[13] By virtue of such division, some urban constituencies have three to four times as many voters as their rural counterparts. For instance, the constituency of Ampang Jaya, in Selangor near Kuala Lumpur, has more than five times as many voters (98,527) as does the remote constituency of Hulu Rajang in Sarawak, (16,018), both of which send one member to Parliament. Under the current system, greater weight appears be given to votes from the predominantly Malay rural areas, which have traditionally played host to the core of UMNO and BN supporters. As a result for instance, despite obtaining 40% of the popular vote in this most recent election, the BA opposition coalition gained only 42 of the Parliament's 193 seats, as compared to the BN's 148.

Campaign Period

A. General Observations

ANFREL observers began arriving in Kuala Lumpur on November 25, 1999 providing them several days during which to observe the final leg of the election campaign.

In general, campaigning was conducted through a variety of means. Parties made ample use of posted printed materials to disseminate their messages, covering lampposts, walls and vehicles with posters, flags, banners and leaflets. As discussed in greater detail below[14] however, parties were not given equal access to print and electronic media, with the government controlled television and radio services refusing to air any opposition publicity (apart from predominantly negative news reports), and the government licensed newspapers refusing to print pro-opposition advertisements or stories.

Campaign ads

While Malaysian law provides for no "quiet day" between the end of the campaign period and election day, campaigning was to stop by midnight on November 28, 1999, the day immediately preceding election day. This prohibition did not apply to the simple method of canvassing by individuals involving direct contact to appeal for votes, outside of the prohibited area within 45.81 meters (50 yards) of the polling station. As such, under Malaysian election law, a "whispering campaign" was permitted to continue on polling day.[15] Yet as discussed below,[16] despite the prohibition, campaigning activities did continue up until and including election day. When questioned as to the reason why they continued campaigning activities, individuals commonly responded that it was an accepted practice despite the law.

One of the most positive aspects of the pre-election period observed by ANFREL monitors was its peaceful character; over the course of this period, no incidents of violence, harassment or intimidation were observed by or reported to ANFREL.

Campaign materials

B. Duration of the Campaign Period

A notable aspect of the campaign period was its relatively short duration. Although Malaysia's Federal Constitution provides that a new gov-

ernment must be formed within 60 days from the dissolution of parliament, only 9 days were allotted to the campaign period.

The duration of the campaign period was met with criticism by many. Opposition leaders expressed that the nine-day period was too short, unfair and undemocratic, in that the timeframe would deny them the opportunity to properly present their political platforms. The problem was further compounded by the "snap" election call which left candidates and parties very little time to prepare for the election. Reasons given by both Prime Minister Mahathir, as well as by Election Commission (SPR) Chairman Omar Mohammed Hashim for the calling of the snap election included the upcoming Muslim fasting month of Ramadan in December, possible disruption to school examinations, and the monsoon season. Other reasons cited by some for the decision to call the election at that time was the fact that Malaysia was experiencing its best economic conditions in the two-years since the 1997 Asian economic crisis, as well as what many saw was an attempt to avoid the eligibility of some 680,000 young first-time voters who were scheduled to join the electoral register in January at the earliest, to vote. It should be noted that the duration of the campaign period was in accordance with Malaysian law, which provides that the election day should be not less than seven days after the day of nomination of candidates.[17]

C. Legal Limitations on Modes of Campaigning

In Malaysia, the allowable modes of campaigning are prescribed by law. Under a number of legal instruments, including the Police Act 1962, the Sedition Act 1948 (amended 1970), the Internal Security Act 1960, and the Official Secret Act 1972 (amended in 1984 and 1986) campaigning has been limited to the distribution

or display of posters, the passing out of printed handbills, closed door *ceramah* (talks), canvassing from house to house, and other restrictive means allowable by the authority on an *ad-hoc* basis. Certain modes of campaigning, namely, political processions (parades) and open-air public rallies, have been prohibited.

Parties and candidates are required to obtain certain licenses and permits or fulfil particular requirements with respect to certain campaign activities. For instance, all printed matter, including handbills, posters and pamphlets, require the names and addresses of the printers and publishers to be printed on them.[18] Further, indoor *ceramah* and house to house canvassing required the obtaining of licenses from police before they are conducted.[19] Other types of licenses and permits are required for other activities as well.[20]

By the same token, these laws, in addition to the applicable election acts and regulations, impose certain limits on a candidate's ability to campaign, through the imposition of restrictions on speech, assembly, and the right to run for office.[21]

D. Biased Media Coverage[22]

Perhaps one of the most disconcerting aspects of the election process in Malaysia was the manner in which it was covered by the media. The mainstream Malaysian media was solidly pro-government in its reporting, denying opposition groups and parties any semblance of equal coverage, and in fact printing advertisements, news articles and stories which criticized and attacked these parties and groups, as well as their individual candidates. Such unequal coverage can be seen as a result of the legal limitations on the freedom of the press, as well as the control

maintained by the government over the Malaysian mass media, acquired by virtue of the laws and practices introduced to regulate the use of electronic and print media in the country,[23] as well as government ownership of television and radio networks. UMNO and its coalition allies directly own or control the major newspapers, radio and television stations in Malaysia. As a result, persons working for these companies may feel bound to report in favor of these parties and their interests, for fear of the repercussions, including dismissal, losing their license, and even legal action, should they do otherwise. From the outset of the election, state radio and television announced that it would not carry any party messages, but only what it termed information about the government's work. According to one survey carried out by the Malaysian Citizens Elections Watch, more than 85 percent of political advertisements and news reports before the election skewed toward the ruling coalition.

ANFREL observers were struck by the blatant bias seen in both in the print and electronic media, in favour of the ruling coalition. Both Bahasa and English-language newspapers ran full-page ads, some of which used reworked or faked photos, aimed at showing the opposition in a bad light. As well, stories alleging corruption and sexual impropriety were widely circulated in the government-controlled press. Many of these newspapers refused to publish opposition advertisements, or run coverage of its campaign. Similarly, television advertisements and coverage were BN exclusive.

The problem of bias media coverage was compounded by the length of the campaign period. Because such coverage had been provided not only during the campaign period, but in the months leading up to the election as well, the opposition expressed that it could not possibly effectively wage a campaign in 9 days, which could hope

to counter the cumulative effect of those months of negative publicity and attention.

In response to the criticism that the media coverage was unequal and biased, the government countered that the opposition had its own papers and media sources, as well as the Internet, by which to

disseminate its messages. In reality however, many of those sources are limited in distribution, with its audience being opposition supporters already. For instance, one of the most popular opposition papers, the Harakah, cannot, under the terms of its publishing licence, be sold to the general public, but to PAS party members only. In addition, by the terms of its license at the time, it was but a bi-weekly paper. As such, it could not immediately respond to the ruling coalition's stories and claims. In effect, it had half the time and space in which to cover the election, or through which opposition parties could have advertising printed.

Attempts were also made to use the opposition's media sources against it. In one incident fake copies of the Harakah containing reports that PAS leaders were secretly in favour of Prime Minister Mahathir, were circulated in Kuala Lumpur.

Although the Election Commission issued an appeal to the media to provide equal coverage to parties and candidates, it expressed that it did not have the power to enforce this request.

E. Campaign Expenditures and Resources

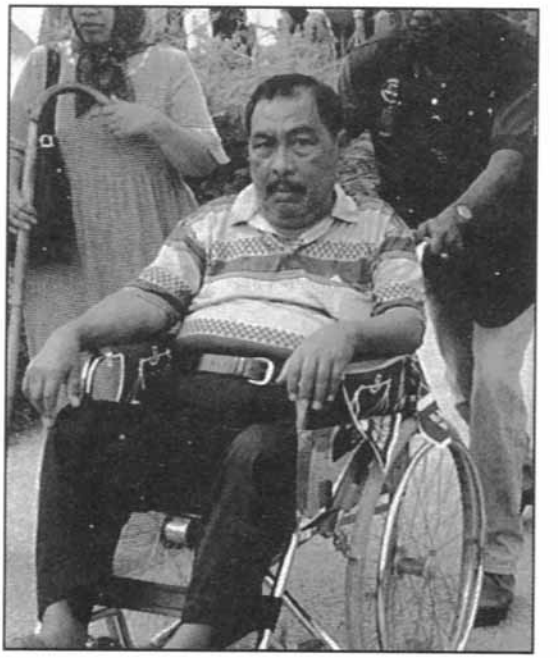
Finally, in the course of its meetings with candidates and party supporters, ANFREL observers received complaints relating to an apparent disparity in campaigning resources between the ruling BN coalition and opposition parties. ANFREL observers also noted a far greater number of ruling party posters, advertisements (both in the print and electronic media), and other political propaganda wares, than those bearing opposition party logos.

While Malaysian law imposes a limit on election related expenses (the maximum expenditure permitted by law is RM 50,000 per

parliamentary constituency, and RM 30,000 per state constituency, regardless of electorate size or nature of the constituency), restricts the number and category of persons who may be employed for election related work (each candidate may employ only one election agent per polling district, and a "reasonable" number of clerks and messengers), and sets out strict procedures for the accounting of expenses, these regulations cover only those expenditures incurred between nomination day and polling day. As such, there is nothing to prevent a candidate from spending a larger amount of money before the publication of the Notice of Election in the Gazette. Moreover, any expenditures toward publication in a newspaper or other periodical in relation to the election is exempted. It is open to any person, organization or party to take out an advertisement or sponsor features with a view to promoting a candidate. Equally important, there is no control of expenditures by political parties. Finally, the controls on contributions by businesses to elections campaigns appears to be ignored under existing law. The cumulative effect of the current regime appears to provide those candidates and political parties with strong financial ties and access to state machinery with a distinct advantage over those without. By imposing this disadvantage on other parties and candidates, the conduct of truly free and *fair* elections may be precluded.

Crowded scenes were typical outside polling stations on the day of election.

A high level of enthusiasm among the people, including disabled persons, created a high voter turn-out for the day.



Polling Day

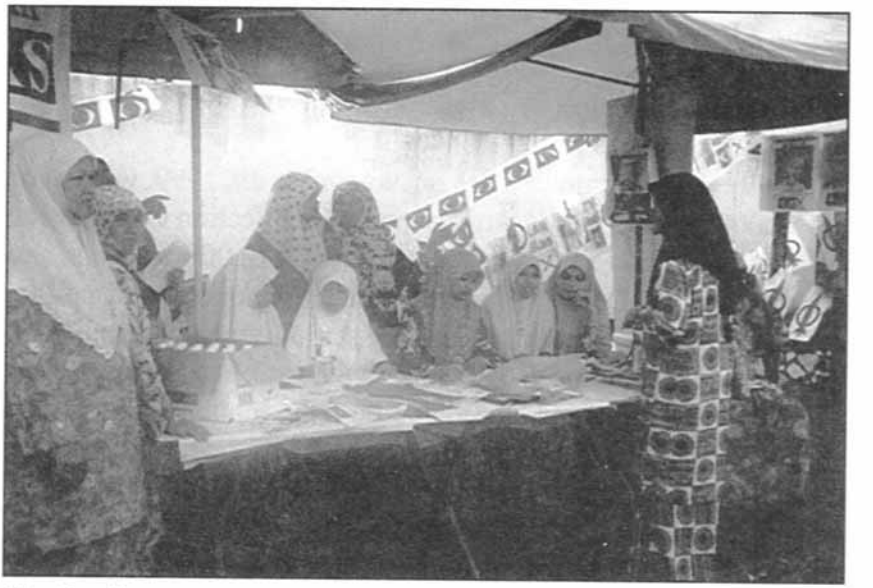
A. General Description

The polling of votes took place on November 29, 1999, with some 9,564,000 persons eligible to take part. The Election Commission of Malaysia reported that it had employed 112,000 workers, and spent a total of RM 55 million to conduct the one-day of polling operations. On the peninsula, polling stations opened at 8:00 a.m. and closed for counting at 5:30 p.m. In Sarawak and Sabah stations opened at 7:30 a.m. and closed at 5:00 p.m., though some centres in the interior closed earlier.

Most all ANFREL observers commented on the enthusiasm of people to vote. Electors generally came out early to cast their ballots, with a reported 60 – 70% voting before noon in most centres.

Although by law campaigning was to stop by midnight the preceding day, supporters turned out in large numbers to wave the flags and banners of their candidates. All displays of party support was generally strictly prohibited within 45.81 meters (50 yards) of the polling station, however monitors in Kuala Lumpur observed some violations of this rule. For instance, at a Bangsar polling station, observers saw one woman wearing a Keadilan pin and colours attempting to canvass voters within the 50-yard perimeter. At several stations in Kuala Lumpur as well, observers witnessed a number of persons cross the perimeter carrying umbrellas bearing the BN logo and colours.[24]

Under Malaysian election law,[25] each candidate was entitled to set up a booth or booths to assist voters to identify their names and



The Keadilan party booth

Parties were allowed to set up booths in order to assist the voters

Another violation was found with the information slips printed by the parties and distributed at their booths. The slips were clearly marked with the party's logo, thus compromising voter secrecy.

The umbrella with the BN logo was a violation of the campaign laws.

numbers in the electoral roll. At most stations, all major parties had such booths set up. In some constituencies, these booths were equipped with computers and modems, to enable the party representatives to access the Election Commission web site on which the electoral roll was posted. Observers witnessed certain irregularities with respect to these booths however, including the printing of information slips clearly marked with the respective party's logo (which the elector would then carry with them into the polling booth) compromising the level of voter secrecy and possibly influencing voters' choices.[26] Monitors also observed the distribution of food, water and other items to electors, contrary to Malaysian rules against treating.[27] In addition, many of these booths displayed posters and flags in excess of that which is allowed under the Election Offences Act, 1954[28] both in terms of size and number, and were often manned by more than four persons, also in contravention of that Act.[29] Finally, contrary to Malaysian election

law which provides that all campaigning must stop by midnight on the day immediately preceding polling day,[30] representatives and supporters of most all parties continued to campaign throughout the day.

Outside the polling centres, voters queued in line awaiting their turn to cast their ballot. Having not been granted official observer status by the Election Commission, with one exception, ANFREL observers were not allowed to enter the polling stations, and thus could not observe the polling process firsthand. Based on observations from outside of the stations, the polling process appeared to be carried out in an orderly manner.

In general, ANFREL observers noted a peaceful, almost festive atmosphere in the constituencies visited, and were impressed by the high voter turn out, and enthusiasm to participate.

B. Complaints and Irregularities

Although polling day was by and large peaceful and well organized, a number of irregularities were observed by and reported to ANFREL monitors as well. These are as follows:

Voter impersonation

ANFREL observers received a number of complaints and reports relating to voter impersonation.[31] Falsified voter identification cards were reportedly issued to illegal foreign workers in Pehang. Some 10 people identified as Cambodian illegal migrant workers were seen entering a polling station the Sekola Agama Al-Altaz area of Kuala Pahang. The issuing of false identity cards to a

number of illegal migrant workers as well as multiple voting were reported in Sabah, where a local organization collected evidence of identity cards bearing the same photograph but different names and addresses. As well, the casting of ballots by phantom voters was reported in the Linkas area of Gaya in Sabah where photographs of several of these voters were taken by PBS party agents. Phantom voting was also reported in the Kuala Kangsar area of Perak.

Threats to voting secrecy

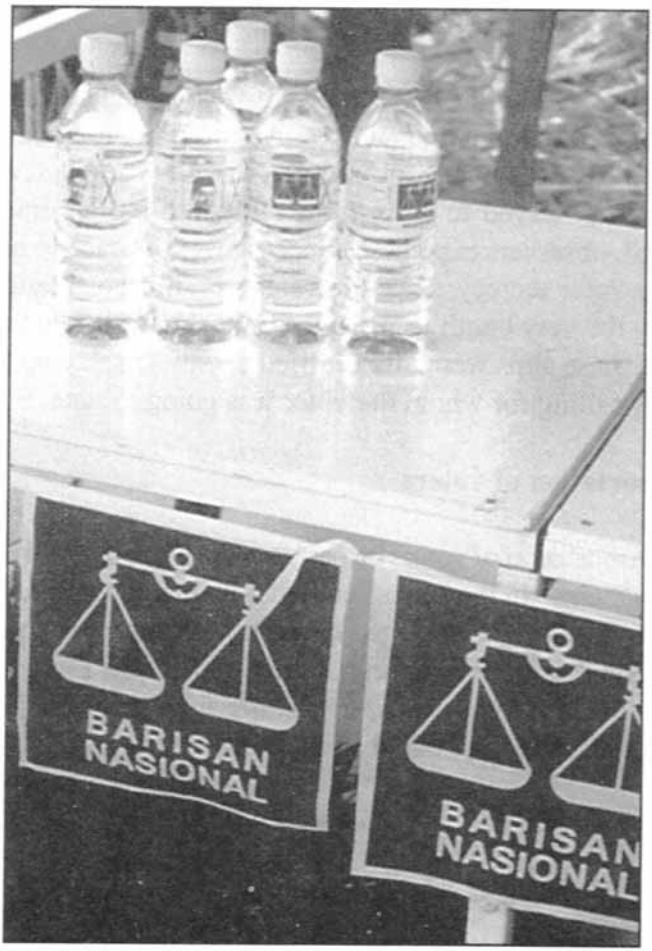
Paper slips bearing the respective party's logo and candidate photograph, the voter's name and polling booth number were issued to voters from the booths of both BA and BN candidates. Voters were then observed to carry these slips into the polling station. ANFREL observers expressed concern that this practice may compromise voter secrecy, since the voter's political affiliation is implied by the very booth to which he or she may choose to go, and because these slips were often carried openly, displaying the party logo, signalling for whom the voter was going to vote. [32]

Transportation of voters

The transportation of voters by party agents was observed in several constituencies. In the Linkas area of Sabah, a school bus carrying voters and bearing a BN logo was permitted to pass within the 50-yard perimeter of the polling station. In Kuala Lumpur, a van bearing the BN logo was seen picking up electors in front of a polling station in the Pudu district.

Treating

Treating was also witnessed by ANFREL observers who saw food and drinks being distributed by both BN and BA party representatives from candidates' booths around Kuala Lumpur.[33] In the federal territory, observers also saw water bottles bearing the BN logo and candidates picture were distributed at several polling stations.



Waxing of ballot papers

The waxing of ballot papers was reported to ANFREL observers as well. In Sekolah Menugal Ahmad area of Kuala Pahang, voters at two separate stations reported a waxy layer on top of the area where the elector's vote was to be marked on the ballot paper. A complaint was made to the SPR officer in the area, and the ballots were later removed. A wax coating on the ballot paper was also reported at polling stations in Kuala Trengannu constituency of Trengannu. In the Kota Bharu constituency of Kelantan, complaints were received that the ballots were not easy to mark, and could be easily erased.

Use of pencils to mark ballot

Voters were given only pencils with which to mark their ballots. ANFREL observers were concerned with this practice since the voters' ballot markings were more susceptible to being erased or otherwise altered, a risk increased by the waxing of ballots in several constituencies.

Problems with the electoral roll

In Perak, a number of complaints relating to problems with the electoral roll were received. Several voters in the Kampung Gajah district complained that their names had been transferred to constituencies other than where they expected to vote, while a group of voters in the Lumut area complained that although three of them registered together in April 1999, one of their names appeared on the electoral list. In Kuala Kangsar, one voter was not allowed to vote by one SPR clerk on the basis that his name was not on the list, although he claimed to have verified his name first at party headquarters who had same list.

Minor forms of intimidation

Minor forms of intimidation were reported in the Gaya and Tuaran areas of Sabah where police and UMNO party agents told voters that they were not allowed to receive any documents or materials from the opposition.

C. Postal Voting

Another aspect of the electoral process in Malaysia with which ANFREL was concerned was the postal voting system. Under this system, certain classes of persons are entitled to cast their ballots by post. These include "absent voters" (members of the armed forces - naval, military, air force – and their spouses; members of the public service employed full time in positions outside of Malaysia and their spouses; students engaged in full time studies in various educational institutions outside the country and their spouses), as well as persons appointed to carry out election duties, members of the Election Commission, members of the police force, and, "members of any such category of person as the Election Commission may from time to time by notification in the gazette designate as postal voters."[34]

The postal vote is issued earlier than the ordinary vote, approximately five days after nomination day. Once prepared, they are mailed to all the postal voters and are then returned or posted back by these voters to the returning officer of the constituency they are voting for. Special arrangements are made for the delivery of postal votes to members of the armed forces and their spouses at their camps and barracks, as well as for others in that category. Postal votes of overseas voters are sent through the Foreign Ministry to all Malaysian missions overseas, who then make the necessary

arrangements for the delivery to these voters. Postal votes from the armed forces and the police force are put in special ballot bags, supplied to collecting units. All returning officers are required to provide special boxes for the postal votes, into which all postal ballots arriving will be placed. All postal votes are to be returned to the respective returning officers by 5:00 p.m. on polling day; any vote arriving after this time is treated as undelivered. Immediately after 5:00 p.m. on polling day, the boxes are to be sealed. The Election Commission has ruled that the earliest the counting of votes can begin is at 3:00 p.m. on polling day. Returning officers are advised to complete the counting of postal voters for any constituency by 6:30 p.m., at which time counting of the ordinary votes would have begun.[35]

The postal voting system in Malaysia has come under increasing scrutiny for what many perceive as a lack of accountability and efficiency. For instance, ballots are often handed from one officer to the next without any independent official to supervise that the ballots are in fact delivered to each voter, nor to supervise the actual voting process or the provision of voter secrecy guarantees. In the military services, the balloting takes place on military premises, and are administered by the services themselves. Reports of members of the military being pressured to vote a certain way, or of never receiving the ballots at all, have been made. Complaints of other natures have been received as well. For instance, during the first day of postal voting at the Ministry of Defence, one local organization reported complaints by voters who had claimed that they had received photocopied ballot papers.

With the calling of the snap election, the effectiveness of the system was brought into question as well. Some have pointed to the difficulty in completing all steps (posting, receipt, filling-out, and

return of the ballots) within the short 4-5 day provided period. It has been suggested by some that this is a process which has largely outlived its original purposes and which has lost credibility. For these reasons, it has been argued that this system should be revised.

D. Counting of Ballots

Following the closing of the polls, the counting of ballots began. Both ANFREL and local independent observers were not authorized to observe the exercise. ANFREL observers in Kuala Lumpur were however invited by the Election Commission to watch the tabulation of results at its head office.

Generally few complaints were received by ANFREL as to violations, irregularities and/or security problems with respect to the counting, nor could any general misbehaviour be observed from outside of the counting centres. Minor problems were reported however, such as a blackout in the Kuantan district of Pahang during the counting of ballots and the counting of a higher number of votes than number of registered voters, also in that district. In addition, observers who followed the transportation of the ballot boxes from the polling to the counting centres were troubled by the fact that the boxes were transported in cars without the accompaniment by party agents or representatives, increasing the risk of ballot box tampering, compromising the security of the ballot box and integrity of the balloting and counting process.

ELECTION RESULTS

The announcement of results begun just hours after the closing of the polls. The BN coalition won the majority of the country's 193 Parliamentary seats and 394 state seats. At the federal level, the BN won a total of 148 seats, retaining its two-thirds majority in Parliament. Meanwhile, the total number of opposition seats doubled from 22 in the previous parliament to 45. UMNO's representation in parliament fell from 94 to 71 seats, while their coalition partners, the MCA and MIC, held their ground. The Islamic opposition party PAS increased its seat tally from 8 to 27. The Parti Keadilan Nasional won 5 seats and 11 percent of the popular vote. Wan Azizah Wan Ismail won her husband Anwar Ibrahim's former seat in Penang. The DAP suffered a disappointment with the lost seats of two of its longstanding leaders, secretary-general Lim Kit Siang and his deputy Karpal Singh. Nevertheless, it maintained 10 seats, though failed to make any significant gains.

In the 11 state elections held simultaneous to the Parliamentary elections, the BN won 281 seats, with the opposition parties gaining 113. PAS saw its support increase dramatically by winning 98 seats, up from 33 in 1995. The party held onto Kelantan and gained power in neighbouring Terengganu. It won virtually all seats, both state and federal, in the two states, and made inroads into the northern state of Kedah.

POST ELECTION ACTIVITIES

On December 8, 2000, in the wake of the 1999 election, ANFREL hosted a forum titled "Politicial Trends in Malaysia after the 10th General Election," at Chulalongkorn University in Bangkok, Thailand, with a view to better understanding the course of development of the political situation in Malaysia and to discuss the developments witnessed in the course of the election, as well as in the pre and post-election periods. Speakers included General Saiyud Kerdphol, ANFREL Chairperson; Dr. Hatta Ramli, Central Committee Member of PAS and Joint Secrectariat Member of the Barisan Alternatif; Mr. Sunai Phasuk, ANFREL observer and Research Fellow at the Institute of Asian Studies at Chulalongkorn University; Mr. Monsor Salleh, Journalist and former President of the Young Muslim Association of Thailand; Mr. Sha Harudin, Minister Counsellor of the Malaysian Embassy in Thailand and Mr. Sarun Charoensuwan, Representative from the Thai Foreign Ministry. The opening address was delivered by Dr. Withaya Sucharithanarugse, Advisor of the Institute of Asian Studies at Chulalongkorn University, who also moderated the event.

CONCLUSIONS AND RECOMMENDATIONS

ANFREL observers noted a number of positive aspects of the 1999 general election in Malaysia. These included the effective use of advances in information technology for quicker and easier access to election information and materials; a developed system for production of election forms and materials (i.e. voter registration list, ballot books...); a generally peaceful campaign period and election day with no violence and only minor intimidation reported to ANFREL observers; high and enthusiastic voter turn out; good police presence at all polling centres; and minimal violations observed on polling day.

However ANFREL has concluded that a number of problems did exist in both the pre-election period and on polling day, which prevented Malaysia's 10th general election from being conducted in a truly free and fair manner. These problems, and the subsequent recommendations, are set out as follows:

Periodicity of elections

ANFREL finds that certain aspects of the electoral calendar, namely, the calling of "snap" elections and the 10 day campaign period, created a number of problems, including difficulty for opposition parties to effectively campaign, the disenfranchisement of several hundred thousand eligible voters, and the hampering of voter education efforts. As such, it is recommended that in future

elections, the electoral calendar for each phase of the process be set out so as to allow adequate time for effective campaigning and public information efforts for voters to inform themselves, and for the necessary administrative, legal, training and logistic arrangements to be made. [36]

Voter registration

While ANFREL observers were impressed by the systematic means of registering voters, and the transparency of the voter list (being readily available for verification by the public and all parties both in hard copy format and via the Internet), they were concerned with the relatively long period for completing the registration process, and the consequential disenfranchisement of some 680,000 new voters.[37] As discussed in the *UN Handbook on Human Rights and Elections*, procedures for registering voters "should accommodate broad participation and should not create unnecessary technical barriers to participation by otherwise qualified persons." [38] As well, "suspension of registration should occur as closely as possible to election day, so as to provide the greatest opportunity for electors to register."[39] In this regard, it is recommended that the registration system be revised and improved so as to facilitate the registration of eligible voters thereby allowing them their fundamental right to vote and participate in the electoral process.

Constituency division

Constituency delimitation in Malaysia has tended to give greater weight to areas which have traditionally supported the ruling coalition. In this regard, districts must be established on an equitable basis to ensure that the results most accurately reflect the will of all voters.[40] Fair constituency-delimitation procedures must be

established and followed so as to respect the international norm of equal suffrage and so as not to dilute or discount the votes of any particular groups or areas.[41]

Independent observers

While the Election Commission of Malaysia refused to grant permission to both international and local monitors to act as independent observers to the election on the basis that "elections in Malaysia are conducted strictly according to the applicable laws on elections," that these "laws are fair to all parties" and that "since independence in 1957, elections in the country have all been conducted according to requirements of law,"[42] it is clear that a number of problems and irregularities with respect to the electoral system in Malaysia do exist, which may merit the participation of neutral independent observers in the electoral process. For instance, a significant number of Malaysians who spoke with ANFREL observers expressed doubt and concern about the level of transparency and reliability of the system. As recognized by the international community, the involvement of neutral, independent observers in the electoral process may serve important functions, including providing an effective means of verifying the genuineness of the election outcome, and decreasing the likelihood of intimidation or fraud.[43] The presence of non-partisan election observers from national non-governmental and international organizations can also help to secure public confidence in the electoral process.[44] It is therefore recommended that the Election Commission reconsider its policy with respect to the participation of independent observers and that legal provision be made for their effective participation in future elections.

Media coverage

One of the most problematic aspects of the election observed by ANFREL was the often biased, unbalanced and at times misleading coverage by the mainstream media in Malaysia.[45] This can be seen to stem from the lack of independence of the media, the stringent and restrictive laws applicable to the media and freedom of expression generally, as well as direct and indirect government ownership of both printed and electronic mainstream media.

The independence of the media, the guarantee of freedom of expression, and fair and balanced media coverage is an essential prerequisite to free and fair elections. Access to the mass media should be guaranteed to political parties and candidates, and such access should be fairly distributed.[46] This implies not only allocation of broadcast time or print space to all parties and candidates, but also fairness in the placement or timing of such access (i.e. prime-time versus late-night broadcasts, or front-page versus back-page publication.)[47] This also implies responsibility on the part of all persons or parties delivering messages or imparting information via the mass media (i.e. truthfulness, professionalism and abstaining from false promises or the building of false expectations).[48] This is especially important where the major information media are government-controlled.

It is therefore recommended that Malaysian electoral law provide for fair media access by candidates and parties.[49] More specifically, media regulations should be enacted to provide for safeguards against political censorship, unfair government advantage and unequal access during the campaign period.[50] In this regard, it is recommended that an independent body charged with monitoring political broadcasts, broadcast civic education programmes and

allocation of time to various political parties as well as receiving and acting upon complaints regarding media access, fairness and responsibility be created in order to help ensure fair and responsible broadcasting during election periods.[51] Responsible electoral broadcasting and publication in the media may further be secured by an agreement on a code of conduct for the media.[52] Finally, it urges that an independent body, such as the election commission, be empowered to regulate such matters so as to ensure fair and equal election coverage for all parties.

Quality of the electoral roll and voter impersonation

ANFREL observers were concerned as well with mistakes on the electoral list, the presence of fictitious and duplicative names and addresses, the names and addresses of deceased persons,[53] and reports of multiple voting and participation of phantom voters.[54] These problems effected the integrity of the electoral process, contravening both international standards applicable to human rights and elections and Malaysian domestic law. ANFREL would therefore urge the Malaysian authorities, and the Malaysian Election Commission in particular, to revise the electoral list so as to remove any such ineligible "voters" and to better ensure that a one person, one vote system is in place and is enforced, so that the genuine will of the people can be properly expressed and forms the sole basis for the election results.

Irregularities on election day

A number of irregularities, including continued campaigning, carrying and wearing of party symbols within the polling centre perimeter, waxing of ballot paper, treating, and the transportation of voters, occurred on polling day.[55] It is urged that such the rules

and regulations relating to polling day activities be more strictly enforced in future elections to ensure the integrity of the voting process and prevent any particular parties or candidates from acquiring any undue advantage. On the other hand, it is recommended that the rules which have been supplanted by commonly accepted practices, and which are no longer effective or enforced, in particular those rules relating to campaigning on polling day, be reconsidered to determine whether they should be repealed. Direct action should be taken to ensure that no ballot papers or writing instruments which may allow for the voter's choice to be modified be used. Particular attention should be paid to the guarantee of voter secrecy. Although the practice whereby voters may check their names and polling station numbers at candidates' booths, and are thereafter given information slips bearing their name and polling station number, may have as its object the assistance of voters, it also compromises voter secrecy since the voter's political affiliation may be implied by the very booth to which he or she chooses to go. Furthermore, the issued paper slips bear the candidate's photo or party logo, and are often carried openly by the voter into the polling station, signaling for whom the voter is about to cast his or her ballot. For this reason, it is recommended that such slips be issued by a non-partisan, independent body, such as the Election Commission, and contain only the information necessary to assist the voter, without signaling that voter's political preference.

Postal voting

Malaysia's postal voting system has come under increasing scrutiny, with many questioning its reliability and efficiency.[56] Under the current system, the distribution and casting of ballots may take place without any independent supervision or scrutiny. In this regard, voting must be administered by an independent body and

personnel, in a location in which voting secrecy can be guaranteed, and where those voting under the system can be better isolated from influence or pressure from superiors or others. In short, the transparency of the system must be improved, and its integrity better preserved. Though the object of the postal voting system is commendable in terms of providing an opportunity for those unable to cast their ballots in their constituencies the opportunity to vote, its application to particular groups of persons may not be necessary. The purposes for which the system was originally designed should be studied to determine whether they continue to apply and continue to be fulfilled in the present day. On the other hand, the system should perhaps be extended to other categories of persons, including Malaysian migrant workers living abroad, who do not have the opportunity to vote.

Limits to requisite rights and freedoms

It is imperative to the assurance of free and fair elections that fundamental rights and freedoms, including the freedom of expression, freedom of association, freedom of assembly, and freedom of information, be guaranteed. In Malaysia, a number of laws and practices and the manner in which they have been enforced have created a climate of fear in which people, particularly members of opposition parties, are afraid that their political participation, words and actions may be determined to be in violation of these laws. As a result, political participation has been stifled, preventing the Malaysian general election from being capable of being qualified as truly free in nature.

In order for elections to be conducted in a free and fair manner, the legal system must not be used for the pursuit of political ends. As set out in the *UN Handbook on Human Rights and Elections*, par-

ticipation in elections must be conducted in an atmosphere characterized by the absence of intimidation and the presence of a wide range of fundamental human rights.[57] To that end, obstacles to full participation must be removed and the citizenry must be confident that no personal harm will befall them as a result of their participation.[58] Political propaganda, voter education activities, political meetings and rallies and partisan organizations must operate without unreasonable interference.[59] Judicial procedures must be insulated from corruption and partisan influence if they are to accommodate the necessary electoral functions of hearing petitions, objections and complaints.[60] In addition, laws in force which may have the effect of discouraging political participation should be repealed or suspended.[61] Without such rights and guarantees, no election can be truly free and fair.

Empowerment of the Election Commission

While the Election Commission of Malaysia is vested with a number of powers and responsibilities under Malaysian law, it lacks still other powers and proper mechanisms to fully enforce its orders and decisions. The Election Commission should be instilled with greater powers to enforce its orders relating to fair and balanced media coverage for all candidates and political parties, and to enforce the rules and regulations relating to polling day activities, among other things. In addition, it should be completely isolated from any form of political pressure or influence. Malaysian electoral laws and practices should therefore be reviewed to provide the Election Commission with all powers and authority to better ensure that elections are free and fair for all.

Final Analysis

Malaysia is a country which possesses a number of characteristics that appear promising for the conduct of free and fair elections. Its impressive human resources and infrastructure, the enthusiasm and interest of the Malaysian people to participate in the politics of their country, developments in information technology and its effective integration into the election process, are but some examples in this regard. Yet the promise of such elections is defeated by the current system of law and politics in Malaysia. This system has been developed and implemented in a manner which provides a distinct advantage to the ruling coalition. For instance, the timing of elections, the duration of the campaign period, and the delimitation of constituencies all appear to be determined to the BN's advantage. In addition, over the course of the current government's 42 years in power, it has had the opportunity to develop a formidable election machinery. Its access to infrastructure, funding, media access and human resources far outweighs that of opposition parties and candidates. The problem is compounded by a number of laws which limit certain fundamental rights and freedoms and which have made many people afraid to oppose the government or its interests. For this reason, a growing number of Malaysians have begun to openly question the politics of their nation, the integrity, independence of reliability of its systems, and the manner in which its government exercises its power and influence.

To help ensure free and fair elections in the future, action must be taken to "level the playing field." Limits on campaign funding and spending must be strictly enforced. The media must provide equal access for all parties and candidates, with regulations enacted to ensure fair and balanced media coverage, and an independent body to receive complaints and enforce rules and guidelines.

Of course, elections cannot be separated from the larger political context in which they are conducted. For this reason, laws cannot be systematically applied so as to discourage the political opposition of others, or repress the fundamental rights and freedoms which are requisite to a participatory democracy and a free and fair electoral system. Civil society must be strengthened and its participation in the political process and government encouraged. The bodies whose functions touch upon the conduct of elections and participation in the political process, including the Election Commission, the Judiciary and law enforcement departments must be truly insulated from political influence, corruption or bias. It is sincerely hoped that such elements be nurtured and guaranteed, so that the promise of free and fair elections for the people of Malaysia, may be fulfilled.

FOOTNOTES

[1] Information relating to Malaysia's country profile is compiled from: A.S. Banks, A.J. Day & T.C. Muller, eds., *Political Handbook of the World* (International Press Publications, Markham, Ont., 1997) the U.S. Department of State's Bureau of East Asian and Pacific Affairs at http://www.state.gov/www/background_notes/malaysia_0899_bgn.html and the CIA World Factbook 1999 at http://www.odci.gov/cia/publications/factbook/my.html.

[2] Please see Appendix A.

[3] See "The Anwar case", below.

[4] The criteria set out in these paragraphs are derived from the United Nations Centre for Human Rights, *Professional Training Series No. 2, Human Rights and Elections: A Handbook on the Legal, Technical and Human Rights Aspects of Elections* (New York and Geneva: United Nations, 1994) [hereinafter "The UN Handbook on Human Rights and Elections"].

[5] For a more detailed consideration of this topic, please see section III) 2. B. "Duration of the Campaign Period," below.

[6] For information relating to the mission, please see Appendix B

[7] For a list of observers, please see Appendix C.

[8] Please see Appendix D

[9] For the briefing day schedule, please see Appendix E

[10] Please see Appendix F

[11] As provided for under Part IV of the Elections Act 1958, and set out in the Elections (Registration of Electors) Regulations 1971.

[12] See Elections (Registration of Electors) Regulations 1971, section 8.

[13] Paragraph 103 of the *UN Handbook on Human Rights and Elections*, *supra* note 4, states: "The process of identification of electoral districts and boundaries should respect the international norm of equal suffrage. Such delimitation should not be designed to dilute or discount the votes of any particular groups of area." See also paragraphs 68 and 69 of that same handbook, as well as principles V (a) & (b) of the *1962 Draft General Principles on Freedom and Non-*

Discrimination in the Matter of Political Rights, report of the fourteenth session of the UN Sub-Commission on Prevention of Discrimination and protection of Minorities (E/CN.4/830-C/CN.4/Sub.2/218) [hereinafter the *UN Draft Principles General Principles on Freedom and Non-Discrimination in the Matter of Political Rights*] which state:

(a) Every national is entitled to vote in any election, or other public consultation for which he is eligible, on equal terms, and each vote shall have the same weight.

(b) When voting is conducted on the basis of electoral districts, the said districts shall be established on an equitable basis such as would make the results most accurately and completely reflect the will of all the voters.

[14] Section III) 2. D., "Biased media coverage."

[15] A. Rashid Rahman, *The Conduct of Elections in Malaysia* (Kuala Lumpur: Berita Publishing, 1994) at 62.

[16] Section III) 3. A. "Polling Day: General Description."

[17] Regulation 3(1) of the Election (Conduct of Elections) Regulations 1981.

[18] Section 11(c) Election Offences Act 1954.

[19] A. Rahman, *supra* note 15 at 60.

[20] *Ibid.*

[21] For a more detailed discussion on this issue, see section I) 3., "Impact of Malaysian laws on the electoral process," above.

[22] The *UN Handbook on Human Rights and Elections, supra* note 4 lists fair media access as a criterion of both free and fair elections.

[23] For more on this subject, please see section I) 3., "Impact of Malaysian laws on the electoral process," above.

[24] Section 26(2) of the Election Offences Act 1954 provides "Subject to the provisions of subsection (5) no person shall, before polling day, furnish or supply to or for any person any article which indicates or is capable of indicating, or bears or contains anything which indicates or is capable of indicating, support for any candidate or for the political or other opinions entertained or supposed to be entertained by any candidate, with intent that it be worn, carried or used, by any person, in any constituency, on polling day; and no person shall, within any constituency, on polling day, furnish or supply to or for any person, or wear carry or use, any such article."

[25] Election Offences Act 1954, section 26A.

[26] See section III) 3. B., "Complaints and Irregularities," below.

[27] *Ibid.*

[28] Section 26A(3) of the Election Offences Act 1954 provides that "an office or booth may be identified by not more than four posters (each not exceeding fifty square inches in superficial area), bearing the symbol of the said candidate [...]"

[29] *Ibid.* at section 26A(3)(a)

[30] *Ibid.* at sections 2 & 26. See also A. Rashman, *supra* note 15 at 62.

[31] The Malaysian Election Offences Act 1954 includes voter impersonation as a corrupt practice and provides at section 7 that: "Every person who at an election applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person or who, having voted once at any such election, applies at the same election for a ballot paper in his own name, shall be guilty of the offence of personation."

[32] Part VI(a) of the *UN Draft Principles General Principles on Freedom and Non-Discrimination in the Matter of Political Rights, supra* note 13, paragraph 159 provides that "Every voter shall be able to vote in such a manner as not to involve disclosure of how he has voted or **intends to vote.**" Section 5(3) of the Malaysian Election Offences Act 1954 prohibits officers, clerks, interpreters, candidate agents and authorized person in attendance at a polling station from attempting "to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted [...]"

[33] The Malaysian Election Offences Act 1954, section 8, prohibits treating as a corrupt practice. In *The Conduct of Elections in Malaysia* (Kuala Lumpur: Berita Publishing, 1994), former Election Commission Secretary A. Rashid Rahman writes (at p. 72) that a "candidates poll booth should function strictly as the place where the electors may be assisted in identifying their names, numbers or polling streams in references to the electoral rolls. The supply of food and drinks is prohibited as this act amounts to treating, which constitutes an offence under the law. Treating is a form ofcorrupt practice which may affect the standing and the post election position of the candidate. Food and drinks, which are served to workers should not be distributed to the electors."

[34] Elections (Postal Voting) Regulations 1959 (for States of Malaya) and the Elections (Postal Voting) Regulations 1968 (for Sabah and Sarawak).

[35] See A. Rahman, *supra* note 15 at 94 ff.

[36] *UN Handbook on Human Rights and Elections, supra* note 4 at paragraph 75.

[37] Please see section III) 1. A. "Preparation of the Electoral Roll," above.

[38] *UN Handbook on Human Rights and Elections*, *supra* note 4 at paragraph 106.

[39] *Ibid.*

[40] *UN Draft Principles General Principles on Freedom and Non-Discrimination in the Matter of Political Rights, supra* note 13, principle V(b).

[41] *UN Handbook on Human Rights and Elections*, *supra* note 4 at paragraph 103.

[42] Please see section II) 2. "Refusal of Permission to Independent Observers," above.

[43] *UN Handbook on Human Rights and Elections*, *supra* note 4 at paragraph 98.

[44] *Ibid.* at paragraph 126.

[45] Please see section III) 2. D. "Biased Media Coverage," above.

[46] *UN Handbook on Human Rights and Elections, supra* note 4 at paragraph 91.

[47] *Ibid.*

[48] *Ibid.* at paragraph 121.

[49] *Ibid.* at paragraph 120.

[50] *Ibid.*

[51] *Ibid.* at paragraph 122.

[52] *Ibid.* at paragraph 123.

[53] Please see section III) 1. A. "Preparation of the Electoral Roll," above.

[54] Please see section III) 3. B. "Complaints and Irregularities," above.

[55] Please see sections III) 3. A. "Polling Day: General Description" and III) 3. B. "Complaints and Irregularities," above.

[56] Please see section III) 3. C. "Postal Voting," above.

[57] *Supra* note 4 at paragraph 30.

[58] *Ibid.*

[59] *Ibid* at paragraph 31.

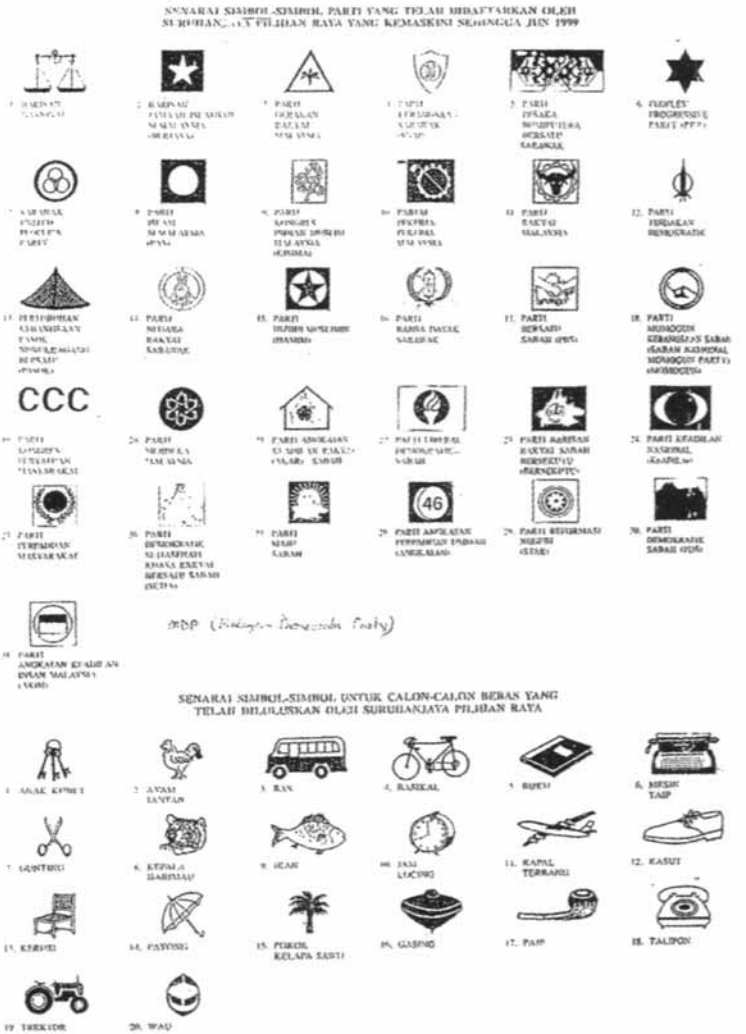
[60] *Ibid.* at paragraph 32.

[61] *Ibid.*

APPENDICES

Appendix A

Political Parties and Symbols



Appendix B

List of Observers

Professor Alih Aiyob
Member, Board of Directors
Task Force Detainees of the Phillipines
Philippines

Ms. Vikki Andrighetti
Lawyer
Canadian Human Rights Foundation
ANFREL Intern
Canada

Ms. Somsri H. Berger
Election Monitoring Programme Officer
ANFREL
Thailand

Ms. Taina Dahlgren
Executive Director
Finnish League for Human Rights
Finland

Mr. Nurul Kabir
Senior Journalist
Bangladesh

General Saiyud Kerdphol
Chairman, ANFREL
Thailand

Mr. Sanjeewa Liyanage
ExecutiveOfficer
Asian Human Rights Commission
Hong-Kong based

Mr. Mulflizar
Committee for Election Monitoring in Indonesia (KIPP)
Indonesia

Mr. Celakan Pathan
Senior Journalist
The Nation
Thailand

Mr. Sunai Phasuk
Senior Researcher
Chulalongkorn University
Thailand

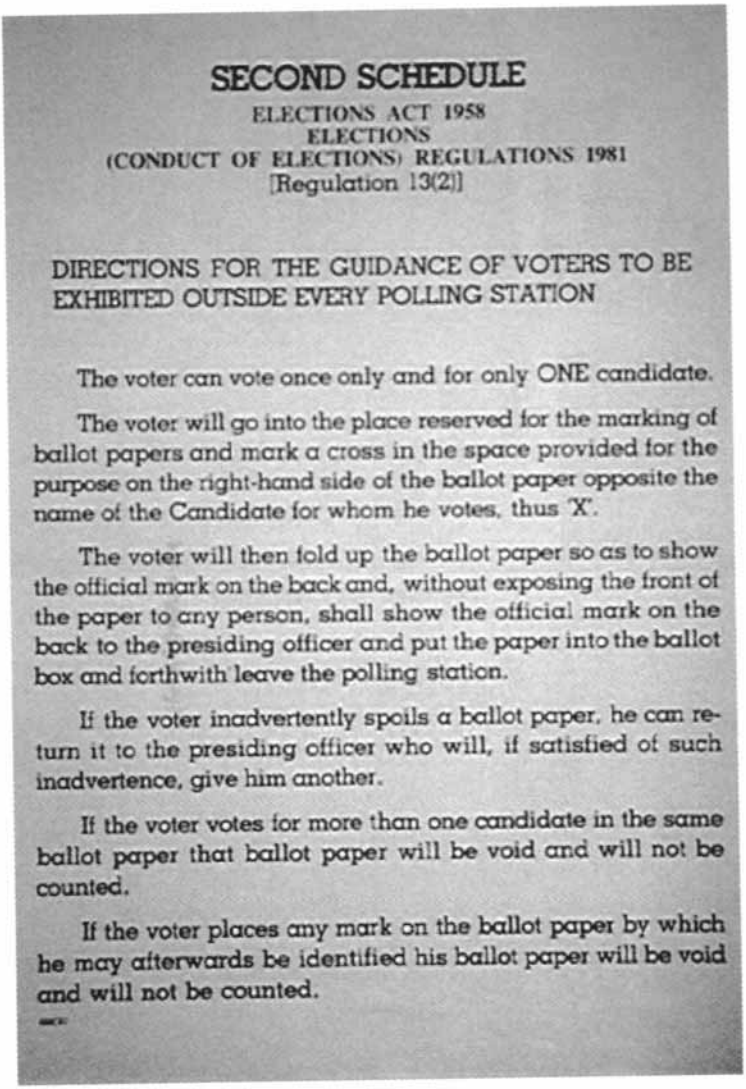
Mr. Sushil Pyakurel
Chairman
Informal Service Sector Center (INSEC)
Nepal

Ms. Auxilium Toling-Olayer
ANFREL Coordinator
Philippines (Bangkok-based)

Mr. Mitsuru Yamada
Professor, Wakayama University
Secretary, InterBand
Japan

Appendix C

Election Commission's Efforts to Inform Voters



SECOND SCHEDULE

ELECTIONS ACT 1958
ELECTIONS
(CONDUCT OF ELECTIONS) REGULATIONS 1981
[Regulation 13(2)]

DIRECTIONS FOR THE GUIDANCE OF VOTERS TO BE EXHIBITED OUTSIDE EVERY POLLING STATION

The voter can vote once only and for only ONE candidate.

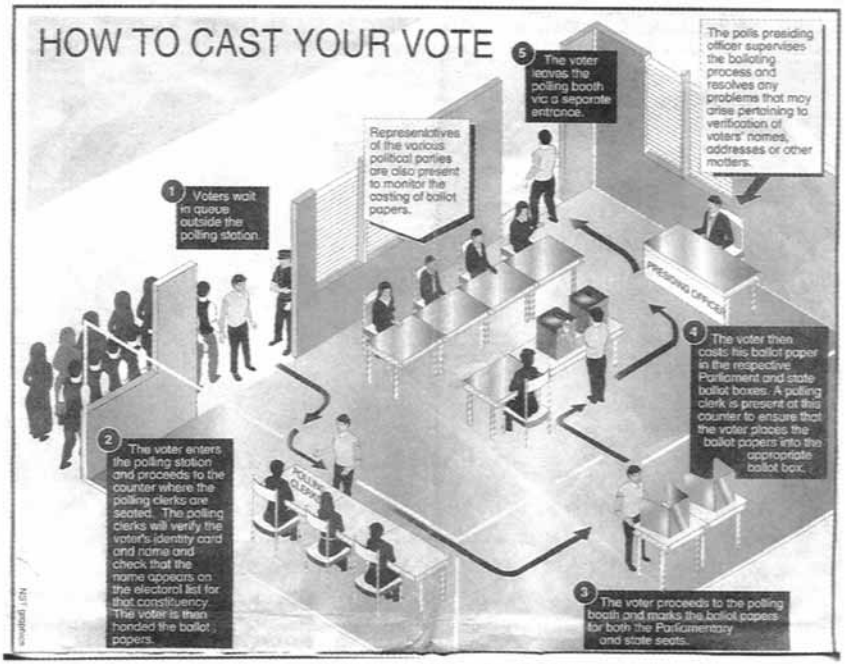
The voter will go into the place reserved for the marking of ballot papers and mark a cross in the space provided for the purpose on the right-hand side of the ballot paper opposite the name of the Candidate for whom he votes, thus 'X'.

The voter will then fold up the ballot paper so as to show the official mark on the back and, without exposing the front of the paper to any person, shall show the official mark on the back to the presiding officer and put the paper into the ballot box and forthwith leave the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the presiding officer who will, if satisfied of such inadvertence, give him another.

If the voter votes for more than one candidate in the same ballot paper that ballot paper will be void and will not be counted.

If the voter places any mark on the ballot paper by which he may afterwards be identified his ballot paper will be void and will not be counted.



New Straits Times Nov 29, 1999

Appendix D

Election Results

WEDNESDAY, DECEMBER 1, 1999

RESULTS

PARLIAMENTARY SEATS (TOTAL 193)

STATES (TOTAL SEATS)	TOTAL CANDIDATES	BARISAN NASIONAL														OPPOSITION									
		UMNO	MCA	MIC	GERAKAN	PBS	PBAP	SUPP	PBDS	LDP	SAPP	PBRS	UPKO	Direct Candidates	Total	DAP	Pas	Keadilan	PRM	PBS	MDP	STAR	AKIM	BERJASA	IND	TOTAL
	774	25	7	15	10	4	1	5	4	3	1	1	1	3	172	42	53	59	4	11	11	5	1	1	21	204
PERLIS	(3)	0													3	0	0	0								0
KEDAH	(15)	5	0	2											7	0	0	0								0
KELANTAN	(14)	1													1	0	10	0	2				0	0		12
TERENGGANU	(8)	0													0	0	7	0	1						0	8
PENANG	(13)	0	0	1	0	2									4	0	4	0	1						0	5
PERAK	(23)	0	0	0	2	3									20	0	1	0	0		0					1
PAHANG	(11)	0	0	0											11	0	0	0								0
SELANGOR	(17)	0	0	0	0	0									17	0	0	0	0	0	0				0	0
NEGRI SEMBILAN	(7)	0	0	0	0	1									7	0	0	0								0
MALACCA	(6)	0	0	0	0	0									4	0	1	0	0							1
JOHOR	(20)	0	0	0	0	0									20	0	0	0	0	0						0
KL	(10)	0	0	0	0	0									8	0	4	0	0		0				0	4
LABUAN	(1)	0	0												1	0	0									0
SABAH	(20)	11				0	0	4	0	0	7	0	0	0	17	0	0	0		0	0	0	0		0	0	0
SARAWAK	(28)	0	0	0	0	0	0	1	4	3	0	0	0	1	26	0	0	0					0		0	0
	146	72	25	7	3	10	4	1	4	3	0	0	0	1	146	0	0	0								0

STATE SEATS (TOTAL 394)

STATES (TOTAL SEATS)	TOTAL CANDIDATES	BARISAN NASIONAL					OPPOSITION							
		UMNO	MCA	MIC	Gerakan	Total	DAP	Pas	Keadilan	PRM	MDP	AKIM	IND	TOTAL
	774	225	77	15	22	394	58	226	82	3	4	1	14	428
PERLIS	(15)	10	2			12	0	3	0					3
KEDAH	(36)	16	4	2	2	24	0	0	0				0	0
KELANTAN	(43)	2	0			2	0	41	0			0		41
TERENGGANU	(32)	4	0			4	0	29	0				0	29
PENANG	(30)	10	0	0	0	10	0	1	0	1	0		0	2
PERAK	(52)	26	4	3	4	44	0	4	0	1	0			5
PAHANG	(36)	21	7	1	1	30	0	1	0	1			0	2
SELANGOR	(48)	26	11	3	2	42	0	1	0	1	0		0	2
NEGRI SEMBILAN	(32)	20	9	2	1	32	0	0	0		0			0
MALACCA	(25)	16	4	1	0	21	0	4	0					4
JOHOR	(40)	25	11	2	2	40	0	0	0	0	0			0
TOTAL WON		176	58	15	22	391	11	86	4					115

New Straits Times Dec 1, 1999

Appendix E

ANFREL Press Releases

ASIAN Network for Free Elections

- A special project of Forum-Asia -

109 Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10320 Thailand
Tel:(662) 276-9846-7 Fax:(662) 276-2183 E-mail:anfrel@mozart.inet.co.th

ASIAN OBSERVERS TO HELP ENSURE FREE AND FAIR ELECTIONS IN MALAYSIA

Formed in 1997, the Asian Network for Free Elections (ANFREL) is a regional network of election monitoring and human rights organizations with a fundamental mandate to contribute to the consolidation of democracy and democratization process, particularly the integrity, credibility and transparency of elections. In the past 3 years, ANFREL had played a significant role in elections and related activities in the Philippines, Cambodia, Nepal, Indonesia and East Timor.

The rising momentum of democratic development in this region provides a good opportunity for ANFREL to carry on with its strong commitment to support the people of Malaysia in achieving successful elections on 29 November 1999.

For Malaysian people as well as the people of Asia at large, progress in "free and fair" elections and participatory politics will mark a promising start of the new millenium.

ANFREL understands that the success of this mission will only be possible with cooperation from the government of Malaysia. A formal letter was sent to His Excellency, Prime Minister Mahathir Mohammed and The Honorable, Datük Omar Hashim, Chairperson of the Election Commission, informing them of the deployment of a 13 member team of observers led by General Saiyud Kerdphol.

ANFREL observers, comprising of academicians, lawyers, journalists and human rights advocates from 9 countries will observe the polling stations in designated areas as well as the context of the elections at national and local levels from 26 to 29 November 1999. ANFREL will also coordinate this mission closely with other international observers.

A team of senior observers and members of the steering committee will stay in Kuala Lumpur to render courtesy visits to the Office of the Prime Minister, the Office of the Election Commission, some political parties from the ruling coalition and the opposition group, the media and other related agencies.

ANFREL wishes to inform the voting public and the government authorities of the finding of this mission which will be useful for an improvement of democratic exercises in the future, particularly on the matters related to "free and fair" elections and participatory politics.

ANFREL press conference on the findings of this mission will be given at Hotel Midah in Kuala Lumpur on 30 November 1999 at 16.00 hours. For further information, please contact the secretariat office at the following address:

Room 811
Hotel Midah
8 Jalan Kampung Attap
50460 Kuala Lumpur
Tel (603) 22739999
Fax (603) 22739199

ASIAN Network for Free Elections
- A special project of Forum-Asia -
109 Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10320 Thailand
Tel:(662) 276-9846-7 Fax:(662) 276-2183 E-mail:anfrel@mozart.inet.co.th

Malaysia Achieves A Peaceful Election, But Still Far From Being Free and Fair

ANFREL finds the general atmosphere before and during the election peaceful and relatively in order. Enthusiasm of the voters is profound on the polling day. In most constituencies, more than 50% of voter turnout is reached by noon. The management of the polling is relatively efficient and sufficient security is provided at each polling and counting station.

However, ANFREL wishes to point out the following concerns as observed by our observers and shared by some voters. We strongly suggest that the issues be addressed seriously and transparently in order to achieve a meaningful democratic election in the future.

1. We find inadequate power of the authority in charge of election administration to guarantee free, fair and credible polls.

- The Election Commission clearly lacks necessary powers to make sure that the media gives non-biased coverage of the contesting political parties.
- The system of voter registration has deprived the right to vote of 680,000 people.
- There are evidences of multiple registration of voters in many areas throughout the country.
- Temporary identification cards and fake identification cards have been issued and distributed during the past six months to foreign immigrants allegedly on condition that they must vote for the ruling party.
- The handling of postal vote has caused many questions by the public.

2. During the campaigning period, there were complaints about intimidation committed by government officials and agents of the ruling coalition, creating an uneven contesting ground.

3. On the polling day, irregularities and violations of the Election Laws and Election Codes of Conduct were found.

- Agents of the ruling party were found gathering identification cards from voters in front of the voter registration counters.
- Buses were found entering within 50 meter-perimeter of a number of polling stations
- "Phantom voters" were reported and pictured by agents of opposition parties as well as independent observer groups.

CONCLUSION:

Although ANFREL finds the election relatively peaceful, the conduct of both the electoral process and the polling are still far from being free and fair. Not all political parties were able to carry out their messages to the public. The media coverage were often biased, unbalance and at times misleading. There are discrepancies in the handling of the voter registration, fair play in the campaigning and the recognition of independent monitoring agencies.

Appendix F

ANFREL News

Thai-based group watches poll

On the surface, looks quite fair — Saiyud

Kuala Lumpur, AFP

Groups of foreign and local observers toured polling centres yesterday to monitor Malaysia's keenly fought general elections and ensure balloting is fraud free.

A group from the Bangkok-based Asian Network for Free Election deployed observers to eight of the 13 Malaysian states to monitor conditions at voting centres and promised an initial report a day after the polls.

"A report will be made public Tuesday [today]," Thailand's General Saiyud Kerdphol, who is heading a 13-member team from the network, said.

Observers from the network, a non-governmental organisation, are from various countries including Bangladesh, Canada, Finland, Indonesia, Japan, Thailand, Nepal and the Philippines.

"The election is done in a free manner but we do not know if it is fair or not," Gen Saiyud said when asked about his initial assessment of the polls after touring election booths in Kuala Lumpur.

He said there were no reports of violence but was informed that names of some prospective voters were not on the ballot lists at polling centres.

Gen Saiyud

"On the surface, the election is quite fair but we have not looked at it deeply," Gen Saiyud said.

He also said he was impressed by the "friendly" feelings demonstrated by supporters of rival political parties contesting the 10th Malaysian general elections, the full results of which will be known by later this morning.

Election Commission chairman Omar Hashim described voter turnout yesterday as good and predicted that at least 70% of the 9.5 million registered voters would vote.

Kamar Ainiah Kamaruzaman, president of a local polls-monitoring group known as the Malaysian Citizens Election Watch, claimed there were irregularities in the voters' list.

"Some of the complaints relate to names missing from the electoral list and the existence of dead people's names on the list," she said.

Worried such irregularities would influence the outcome of the elections, Ms Kamar had urged the Election Commission conducting the polls to address these concerns but, citing lack of resources, that was unable to be done.

Some 2,000 volunteers from her group have been mobilised nationwide to monitor the elections, she said, adding that "we have not received any reports of trouble.

"Polling is moving smoothly," she said.

The opposition Alternative Front coalition claimed on Saturday that at least 200,000 voters were holders of fake identity cards and called for an immediate probe.

It charged that the suspected fake voters were discovered in 12 of the 193 parliamentary constituencies.

Bangkok Post Nov 30, 1999

M'sia polls trouble-free: observers

Agence France-Presse

KUALA LUMPUR – Groups of foreign and local observers toured polling centres yesterday to monitor Malaysia's keenly fought general elections and ensure balloting was fraud-free.

A group from the Asian Network for Free Elections deployed observers to eight of the 13 Malaysian states to monitor conditions at voting centres and promised an initial report a day after the polls.

A report will be made public today, said Thailand's Gen Saiyud Kerdphol, who is heading a 13-member team from the network.

Observers from the network, a Bangkok-based non-governmental organisation, are from Bangladesh, Canada, Finland, Indonesia, Japan, Thailand, Nepal and the Philippines.

"The election has been conducted in a free manner but we do not know if it is fair or not," Saiyud said when asked about his initial assessment of the polls after touring election booths in Kuala Lumpur.

He said there were no reports of violence but was informed that names of some prospective voters were not on the ballot lists at polling centres.

"On the surface, the election is quite fair but we have not looked into it too deeply," Saiyud said.

He also said he was impressed by the "friendly" feelings demonstrated by supporters of rival political parties contesting the 10th Malaysian general elections, the full results of which will be known early today.

Election Commission chairman Omar Hashim described voters' turnout yesterday as good and predicted that at least 70 per cent of the 9.5 million registered voters would cast ballots.

Kamar Ainiah Kamaruzaman, president of a local polls-monitoring group Malaysian Citizens Election Watch, claimed there were irregularities in the voters' list.

She cited names missing and duplicated on the electoral list, as well as the existence of names of deceased people on the rolls.

"Cases of names wrongly spelt, resulting in the voter being debarred from casting his vote have been received from several centres," she said. Kamar also said voters had complained that the space for marking opposition candidates on the ballot paper was waxed, "making it difficult if not impossible to record their vote".

Voters are required to use a pencil to mark candidates they choose on the ballot paper.

Voters had also expressed fear about vote secrecy since the serial number on the ballot paper and counterfoil kept by the Election Commission were the same.

"Government servants, in particular have expressed fear that their choice of candidate could be known," Kamar said.

Other woes highlighted by the local watchdog team included early closing of three voting centres in Sarawak on Borneo Island.

Worried such irregularities would influence the outcome of the elections, Kamar had urged the Election Commission conducting the polls to address these concerns.

Some 2,000 volunteers from her group have been mobilised nation-wide to monitor the elections, she said, adding "we have not received any reports of trouble".

Nation Nov 30, 1999

Poll not fair, say foreign observers

Associated Press

FOREIGN observers to Malaysia's elections said yesterday they were not free and fair, largely due to biased media coverage and discrepancies in voter registration.

The Asian Network for Free Elections (Anfrel) said temporary and fake identification cards had been issued to foreign immigrants in the last six months on condition that they vote for the ruling party of Prime Minister Mahathir Mohamad.

Mahathir, premier since 1981, won a fifth term after his National Front coalition grabbed 148 of the 193 parliamentary seats in Monday's polls, despite facing a more unified political opposition than in previous elections.

Anfrel said there was evidence of multiple registration of voters throughout the country. Some 680,000 young people who were not enrolled on the electoral register had been deprived of the right to vote, a statement said.

MAHATHIR

A project of a Bangkok-based human rights group called Forum Asia, Anfrel sent a team of 13 Asian academics, journalists, lawyers and human rights activists to observe polling stations in eight Malaysian states.

They were also briefed by the director of Malaysia's Election Commission, which Anfrel concluded, lacked the necessary powers to guarantee free and fair polls.

"Not all political parties were able to carry out their messages to the public," the statement said. "The media coverage was often biased, unbalanced and at times misleading."

Anfrel alleged agents of the ruling party were found gathering identification cards from voters in front of registration counters, which it cited as an infringement of election law and codes of conduct.

However, it praised the elections for being peaceful and orderly.

The group has in the past observed other elections in South and Southeast Asia, including the East Timor independence referendum in August and general elections in Indonesia, Nepal and Cambodia.

Nation Dec 2, 1999

LEFT: Prime Minister Mahathir Mohamad is carried aloft as he celebrates his victory in Kuala Lumpur yesterday. ABOVE: Opposition leader Wan Azizah Wan Ismail holds hands with her only son, Muhammad Ehsan, 14, in Penamti, 500km north of Kuala Lumpur late on Monday. — REUTERS

Signs of fraud found

Kuala Lumpur, AFP

A foreign poll watchdog group said yesterday it found traces of fraud and other irregularities in Monday's Malaysian general election and could not conclude it was "free and fair".

A group from the Asian Network for Free Election deployed observers at polling stations in eight of the 13 states.

"What we can infer is, there was a systematic attempt to organise the voter registration in a way it will favour the victory of certain parties," said Sunai Phasuk, a member of the Bangkok based election watchdog.

Mr Sunai said migrants from the Philippines were given identity cards on condition they vote National Front. He distributed photocopies of temporary identity cards to attest his words.

Fiery Chinese leader silenced

Voters turn backs on vocal Mahathir critic

Kuala Lumpur, AP

As the country's top opposition leader, he eschewed riches, repeatedly courted imprisonment and watched his own son being marched off to jail.

But Lim Kit Siang, the political underdog and the government's most vocal critic for 30 years, paid his biggest political price in the general election: He was rejected by the voters whose rights he had championed.

Mr Lim, 58, suffered his most stunning blow when he lost both his parliament and state seats in the northern state of Penang, a result which could forever prevent the fiery politician from issuing any more of his trademark attacks against Prime Minister Mahathir Mohamad in parliament.

Mr Lim, an MP since 1969, lost the Chinese Bukit Bendera parliamentary constituency to Chia Kwang Chye, a member of Dr Mahathir's ruling coalition, by a mere 104 votes.

Mr Lim, looking visibly stunned, said in the predawn hours yesterday that he accepted the verdict from the 18,500 predominantly ethnic Chinese voters.

"When we take high risks, we must be prepared to face the consequences if we fail," he said.

Hours later, the Democratic Action Party chief said he did not regret his decision to play a high stakes political game in a bid to thwart Dr Mahathir's coalition of a two-thirds majority.

"We took these political risks not for ourselves but for the sake of the people and the country, to restore justice and freedom, democracy and good governance," he said. "My personal defeat and setback is a secondary issue."

Charles Santiago, head of the Centre for Economic and Social Research at Stamford College in Kuala Lumpur, called Mr Lim's loss "heart wrenching".

"I think by throwing him out, Malaysians have done a major disservice to the country and to future generations. I think the Chinese did a major disservice to him".

Bangkok Post Dec 1, 1999

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The Asian Network for Free Elections is a special project of the Asian Forum for Human Rights and Development. It came about as part of FORUM-ASIA's campaign for human rights and democratization in the region, starting from Burma, Indonesia, Cambodia and Malaysia. Formed in November, 1997 by election monitoring groups and human rights organizations in Asia, ANFREL aims to contribute to the democratization process by building capacities through training and supporting actual monitoring of elections by local groups, lobbying and disseminating election-related information.

FORUM-ASIA

The Asian Forum for Human Rights and Development is a regional network of human rights and development organizations in Asia. It was established in Manila, Philippines in 1991. It strives to promote, on the basis of global perspective, a regional initiative towards the protection of human rights, development and peace in the region through collaboration of human rights and development NGOs and peoples' organizations in Asia.