

**FIGHTING FOR VOTING RIGHTS:  
A COMPARATIVE STUDY OF SOCIAL MOVEMENTS  
IN VIET NAM AND MALAYSIA IN THE 21<sup>ST</sup>  
CENTURY**

By

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## ABSTRACT

This thesis was aimed at answering the following two questions concerning two case studies:

(1) how voting rights activists, through social movements, challenged national electoral systems, in particular how the movements developed; and (2) which factors influenced the development and outcomes of the movements. The study focuses on two specific cases of social movements that targeted voting rights, namely *Self-Nomination for the 2016 Legislative Elections* in Viet Nam and *Bersih 2: Walk For Democracy* as part of the ongoing *Bersih 2.0* campaign in Malaysia. Taking a qualitative, inter-disciplinary and comparative approach, the study identified similarities and differences in terms of discourses, organizing structures, strategies and tactics used by activists between the two cases. The study also found key external and internal factors which had contributed to shaping the development and outcomes of the movements. In addition to finding the answers to the research questions, this researcher observed two patterns about the two case studies. Firstly, how the movements developed and ended up were the consequences of the interactions between external and internal factors. Secondly, while the development of the movements' internal factors was related to external factors, the movements eventually developed their own dynamics rather than purely reflecting external factors. Based on the findings of this study, this researcher came up with practical recommendations for relevant stakeholders with an aim to enhance the influence of social movements which focus on human rights, especially civil and political rights.

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## CHAPTER 1. INTRODUCTION

Social movements have been instrumental in generating important socio-political changes in history, in particular the advancement of human rights in various parts of the world.<sup>1</sup> This research is dedicated to the understanding of this socio-political phenomenon from a comparative and inter-disciplinary approach, focusing on two specific cases of social movements that targeted voting rights: *Self-Nomination for the 2016 Legislative Elections* in Viet Nam, and *Bersih 2: Walk For Democracy* as part of the ongoing *Bersih 2.0* campaign in Malaysia. Set on a background of the global trend of increasingly restrictive measures against support for civil society groups working for democracy and human rights,<sup>2</sup> the study is aimed to draw attention to and bring an understanding of human rights activists' efforts in the face of this challenge, and to give stakeholders, in particular international human rights bodies and concerned governments, more insights into the strengths and needs of civil society groups in order to plan for support and protection.

This study is aimed to answer the following questions: (1) how voting rights activists, through social movements, challenged national electoral systems, in particular how the movements developed; and (2) which factors influenced the development and outcomes of the movements.

Regarding the first question, this researcher found that Bersih 2 had more specific and clearly stated goals, and referred more to international human rights standards in its texts than Self-Nomination. In terms of organizing structures, Self-Nomination was characterized by a

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<sup>1</sup> Sidney Tarrow, *Power in Movement: Social Movements and Contentious Politics* (3rd edn, Cambridge University Press 2011).

<sup>2</sup> Thomas Carothers and Saskia Brechenmacher, *Closing Space: Democracy and Human Rights Support under Fire* (Carnegie Endowment for International Peace 2014).

decentralized structure, while Bersih 2 had a formalized leadership and received support both from within and outside Malaysia. In terms of strategies and tactics, both movements took the same approach: having a main strategy, and at the same time a set of communicative strategies targeting different stakeholders and / or side campaigns to support the main one. Regarding the second question, some external factors, including both domestic and global ones, were found to have probably contributed to shaping the development and outcomes of the movements. Relevant internal factors included framing processes, which involved the setting of goals and activists' discourses; and mobilization strategies and structures, which involved organizational structure, resources, public participation and support, and strategies, tactics and actions adopted by activists. This researcher also observed that how the social movements developed and ended up were the results of the interactions between external and internal factors, and that while the development of social movements' internal factors (namely framing processes, and mobilizing and organizing structures) was related to external factors, a movement eventually developed its own dynamics rather than purely reflecting external factors. The second finding resonates with a theoretical argument by McAdam, McCarthy and Zald.<sup>3</sup>

## **1.1 Social movements and social change**

### **1.1.1 Defining social movements**

For the purpose of this study, I define *social movements* based on the characterizations of this phenomenon by Tilly and Tarrow. Social movements, in the context of this study, is defined as (1) a unique form of *contentious politics*<sup>4</sup> in which participants (2) recognize a sense of

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<sup>3</sup> Doug McAdam, John D McCarthy and Mayer N Zald, 'Introduction: Opportunities, Mobilizing Structures, and Framing Processes - toward a Synthetic, Comparative Perspective on Social Movements' in Doug McAdam, John D McCarthy and Mayer N Zald, *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings* (Cambridge University Press 1996).

<sup>4</sup> Charles Tilly, *Social Movements, 1768-2004* (Paradigm Publishers 2004) 3.

*social solidarity* through some common or overlapping interests,<sup>5</sup> (3) consequently make *collective claims* targeting authorities, opponents, or elite groups,<sup>6</sup> and (4) employ some forms of *collective action*<sup>7</sup> to fulfil their goals which are set by the collective claims (5) in a *sustaining* manner.<sup>8</sup> These characteristics were distilled from these theorists' studies of social movements through history, in particular from the 18<sup>th</sup> to 21<sup>st</sup> century. They also cover important elements proposed by other scholars in defining the phenomenon, such as della Porta and Diani,<sup>9</sup> and McCarthy and Zald.<sup>10</sup>

Of all these characteristics, *contentious politics* might be the least obvious and therefore needs to be elaborated on. Following Tilly and Tarrow's conceptualization, the *contentious* element means that the claims of social movements are in confrontation with authorities, opponents or elite groups, or that if those claims are fulfilled, they would conflict with the interests of one or more of such parties.<sup>11</sup> Tarrow emphasizes that collective action becomes *contentious* when ordinary people lack access to "representative institutions," and therefore join forces to mount their claims through a distinctive channel which is social movements.<sup>12</sup>

The two cases in this study were selected as they met these defining criteria. Before delineating the research questions, this researcher would like to present a brief review of literature on the relationship between social movements and social change, a matter that forms a practical basis for this study.

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<sup>5</sup> Tarrow (n 1) 11.

<sup>6</sup> *ibid* 10–11; Tilly (n 4) 3.

<sup>7</sup> Tarrow (n 1) 7; Tilly (n 4) 3.

<sup>8</sup> Tarrow (n 1) 11; Tilly (n 4) 3.

<sup>9</sup> Donatella della Porta and Mario Diani, *Social Movements: An Introduction* (2nd edn, Blackwell Publishing 2006).

<sup>10</sup> John D McCarthy and Mayer N Zald, 'Resource Mobilization and Social Movements: A Partial Theory' (1977) 82 *American Journal of Sociology* 1212.

<sup>11</sup> Tilly (n 4); Tarrow (n 1).

<sup>12</sup> Tarrow (n 1) 7.

## 1.1.2 The relationship between social movements and social change

While the two cases of social movements selected for this study had a focus on civil and political rights, from a comprehensive perspective, I decided to start this discussion with a denotation about social movements in the general sense, i.e. not only limited to those with a focus on human rights but including all those that fit the definition delineated in the section above.

Considering social movements in this general sense, academic literature on social movements has shown that generally there is a positive correspondence between social movements and progressive social changes, and that however, on a deeper level, the relationship between the two phenomena is much more complex than it appears to be. In his study about the history of social movements from the mid-18<sup>th</sup> to early 21<sup>st</sup> century, Tilly observed a “broad correspondence” between social movements and democratization.<sup>13</sup> He further argued that despite some dangers related to movements, in general, “the triumph of social movements at all scales... would benefit humanity,”<sup>14</sup> explaining that when social movements become common, it is a sign of the development of democratic institutions, and consequently opens up the opportunity for currently marginalized issues and groups to come to the fore in the sphere of public politics.<sup>15</sup> Yet he was cautious about arguing for a causal relationship between social movements and democratization. Indeed, he suggested that social movements do not necessarily promote democracy.<sup>16</sup> He observed a recurrent tendency of social movements in more or less functioning democracies to follow anti-democracy agenda such as

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<sup>13</sup> Tilly (n 4) 125.

<sup>14</sup> *ibid* 157.

<sup>15</sup> *ibid* 157–158.

<sup>16</sup> *ibid* 126.

discrimination against ethnic, racial or religious minorities.<sup>17</sup> He even reminded us about movements that pursued the abolition of democracy and the establishment of totalitarianism such as Mussolini's Fascism and Hitler's Nazism.<sup>18</sup> In her study about civil society and the Women's Movement in South Korea in the 1990s, Moon pointed out that far from being a "uniform and homogenous space without social inequalities or divisions,"<sup>19</sup> civil society, including social movements, can be progressive in one aspect and maintain the inegalitarian status quo in another.<sup>20</sup> Her study showed that during the democratization process of Korea, civil society was expanding, yet at the same time remained primarily "androcentric."<sup>21</sup> The works by Tilly and Moon imply that the relationship between social movements, in the general sense, and social change is not necessarily a positive causal one but instead highly complex. Social movements vary in agenda and dynamics of development, and hence it is not always possible for them to have similar effects on their targeted societies.

While academia is ambivalent about the relationship between social movements and social change, most international and regional human rights bodies typically view civil society, an umbrella term which supposedly covers social movements among other forms of public participation by ordinary citizens, as espousing egalitarian and democratic values, and therefore necessarily contributing to the creation of conditions for a better society in one way or another by virtue of the values that they uphold. Typical examples can be found in the United Nations (UN) human rights system. In his remarks delivered by his Deputy at the High-Level Event on Supporting Civil Society in New York on 23 September 2013, UN Secretary-General Ban Ki-moon highlighted the importance of civil society as "a foundation

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<sup>17</sup> *ibid* 126.

<sup>18</sup> *ibid*.

<sup>19</sup> Seungsook Moon, 'Carving Out Space: Civil Society and the Women's Movement in South Korea' (2002) 61 *The Journal of Asian Studies* 473, 473.

<sup>20</sup> Moon (n 19).

<sup>21</sup> *ibid* 495.

for healthy, responsive governance” and the advancement of human rights in that it raises awareness and draws attention to “abuse, inequality or creeping authoritarianism.”<sup>22</sup>

Similarly, UN High Commissioner for Human Rights Zeid Ra’ad Al-Hussein credited “civil society actors working for human rights” with “determination and integrity.”<sup>23</sup> This perspective about the role of civil society in protecting and promoting human rights and a democratic society tallies with the definition of the term by the Office of the UN High Commissioner for Human Rights (OHCHR), as presented in one of its practical guides for civil society:

This Guide defines [civil society actors (CSAs)] as individuals and groups who voluntarily engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realization of development, and the promotion and respect of human rights.<sup>24</sup>

The Guide then explained in further details how civil society actors contribute to the promotion and protection of human rights.

CSAs promote awareness of rights, assist communities in articulating concerns, shape strategies, influence policy and laws, and press for accountability. CSAs collect and channel views of communities so that decision-making on public policies can be

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<sup>22</sup> United Nations, ‘At High-Level Event in Support of Civil Society, Secretary-General Says “They Protect Our Rights; They Deserve Their Rights”’ (*United Nations - Meetings Coverage and Press Releases*, 23 September 2013) <<http://www.un.org/press/en/2013/sgsm15314.doc.htm>> accessed 11 December 2016.

<sup>23</sup> Office of the High Commissioner for Human Rights (OHCHR), ‘Civil Society Section’ (*OHCHR Website*, 2016) <<http://www.ohchr.org/EN/AboutUs/Pages/CivilSociety.aspx>> accessed 11 December 2016.

<sup>24</sup> Office of the High Commissioner for Human Rights (OHCHR), *Civil Society Space and the United Nations Human Rights System - A Practical Guide for Civil Society* (United Nations 2016) 3 <[http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS\\_space\\_UNHRSsystem\\_Guide.pdf](http://www.ohchr.org/Documents/AboutUs/CivilSociety/CS_space_UNHRSsystem_Guide.pdf)>.

informed more fully. CSAs also fulfil services for those who are at risk and vulnerable on multiple fronts.<sup>25</sup>

In a nutshell, the UN's stance on civil society actors, as demonstrated in the abovementioned examples, is that they are a force who "work for a better future and share the common goals of justice, equality, and human dignity."<sup>26</sup>

The stance of the UN system is shared by European human rights institutions. The Council of Europe considered "a vibrant, influential civil society" one of the five pillars of democratic security, as reflected in a recent report by the organization's Secretary General.<sup>27</sup> The European Court of Human Rights firmly recognized the crucial role of civil society in contributing to the discussion of public affairs.<sup>28</sup> The Court affirmed that civil society, like the press, plays the role as a "social watchdog",<sup>29</sup> and therefore its right to freedom of expression should receive similar protection by the Court. Similarly, in the Astana Commemorative Declaration Towards A Security Community, the Organization for Security and Co-operation in Europe (OSCE) emphasized the vital role of civil society in assisting states to "ensure full respect for human rights, fundamental freedoms, democracy, including free and fair elections, and the rule of law."<sup>30</sup>

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<sup>25</sup> *ibid.*

<sup>26</sup> Office of the High Commissioner for Human Rights (OHCHR), 'Civil Society Section' (n 23).

<sup>27</sup> Thorbjørn Jagland, *State of Democracy, Human Rights and the Rule of Law in Europe - A Shared Responsibility for Democratic Security in Europe (Report by the Secretary General of the Council of Europe)* (Council of Europe 2015) 6.

<sup>28</sup> *Társaság a Szabadságjogokért v Hungary* [2009] European Court of Human Rights 37374/05.

<sup>29</sup> For example, see *Riolo v Italy* [2008] European Court of Human Rights 42211/07; *Vides Aizsardzības Klubs v Latvia* [2004] European Court of Human Rights 57829/00.

<sup>30</sup> Organization for Security and Co-operation in Europe (OSCE), 'Astana Commemorative Declaration Towards A Security Community' para 6.

Considering the various viewpoints about the relationship between social movements and social change among both academia and international and regional human rights bodies, this researcher is mindful of the diverse and complex nature of the phenomenon and its effects on target societies. Nevertheless, even if we focus on social movements which more or less fit the abovementioned definition of civil society actors by OHCHR, namely those with a focus on human rights, development, or peace and security, there is still a variation in terms of dynamics and outcomes, in particular the kinds and levels of impact they might have on target societies. Here arises the need to look into the factors and mechanisms that might have shaped these dynamics and outcomes. Equally important is the question of what constitutes outcomes, especially “success” or “failure”, of a social movement. This research is dedicated to these very fundamental questions. In the next two sections, I am going to explain the research questions and methodology of this study.

## **1.2 Research questions**

### **1.2.1 Main research questions**

This study seeks to answer the questions of (1) how voting rights activists, through social movements, challenged national electoral systems, in particular how the movements developed; and (2) which factors influenced the development and outcomes of the movements.

Taking a comparative approach, the study focuses on two social movements which happened in two different countries, namely *Self-Nomination for the 2016 Legislative Elections* in Viet Nam (“Self-Nomination” in short), and *Bersih 2: Walk For Democracy* (“*Bersih 2*” in short) as part of the ongoing *Bersih 2.0* campaign in Malaysia. Particularly, I seek to find

similarities and differences in the strategies and discourses adopted by activists which directly targeted the existing legal systems or certain aspects of those systems.

Specifically, the study aims to understand these movements' dynamics through framing processes as well as mobilizing and organizing structures<sup>31</sup> to challenge particular aspects of national electoral systems, and what they achieved or failed to achieve regarding the goals they had set. At the same time, the study also seeks to find out which were the key factors, both internal and external, that contributed to shaping the development and outcomes of these movements.

### **1.2.2 Why the two chosen cases?**

The two cases were selected for various reasons. On the one hand, there are significant common grounds in terms of social contexts between the two. Firstly, both countries where these movements took place are all located in Southeast Asia, a region that bears distinct socio-cultural and geo-political features. Secondly, the movements have happened in the 21<sup>st</sup> century, an era characterised by the development of new technology and globalization. This time factor is likely to have important influences on the dynamics of the movements, as demonstrated later in this study. Last but not least, the two movements shared the same cause, which was voting rights.<sup>32</sup>

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<sup>31</sup> McAdam, McCarthy and Zald (n 3).

<sup>32</sup> International Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., Supp. No. 16, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171 (*entered into force* 23 Mar. 1976).

On the other hand, substantial differences in terms of social, cultural, political and legal circumstances between the two cases promise great prospects for meaningful comparisons.<sup>33</sup>

### **1.2.3 Significance of the research**

The research is aimed to bring a deeper understanding of social movements with a focus on voting rights across social, cultural, political and legal contexts.

From a practical angle, the study will bring knowledge about the relationships among different determining factors regarding the development and outcomes of social movements. The study will also provide suggestions for stakeholders regarding protection and support for human rights civil society. In this manner, the study will add a practical value to the understanding and promotion of civil and political rights activism in the region as well as around the world.

## **1.3 Research methodology**

### **1.3.1 General approaches**

The study is qualitative and inter-disciplinary in nature in that the development and outcomes of each chosen case of social movement will be examined in depth mostly through the lens of legal studies and sociology. The study of law is obviously crucial to examining how the social movements challenged the national electoral systems, including electoral legislations and practices. However, for the studies of social movements in general and for the purpose of this study in particular, the discipline inevitably needs to be complemented by sociology – the study of social relations and human society, in order to move beyond legal texts and

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<sup>33</sup> Masamichi Sasaki, 'Comparative Research', *The SAGE Encyclopedia of Social Science Research Methods* (SAGE Publications, Inc 2004) 152 <<http://knowledge.sagepub.com/view/socialscience/n141.xml>> accessed 8 October 2015.

institutions to take into account and understand the social processes which led to and shaped the course of the movements.

The study combines case study and comparative methods. Snow and Trom characterize case study as including

...(a) [the] investigation and analysis of an instance or variant of some bounded social phenomenon that (b) seek to generate a richly detailed and “thick” elaboration of the phenomenon studied through (c) the use and triangulation of multiple methods or procedures that include but are not limited to qualitative techniques.<sup>34</sup>

The current study bears all of these three characteristics. Firstly, it is an empirical examination of two cases of the phenomenon of civil and political rights movements with a focus on voting rights, and the cases are all “bounded in time and place.”<sup>35</sup> Secondly, in order to answer the complex questions about dynamics and development of the movements in question, the study is set to examine the cases in details and depth, looking into various sources and forms of data retrieved and archived following the chronology of the movements, as elaborated further in a later section. Thirdly, the study adopts a mixed-method approach in collecting and analysing its data. The “complex and multifaceted”<sup>36</sup> nature of social movements as a social phenomenon necessarily requires multiple methods in its examination and analysis. Further details regarding the methodology of data collection and analysis will be explained later in this paper. The second and third characteristics of the case study method are instrumental in enabling the detailed examination and understanding of the processes

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<sup>34</sup> David A Snow and Danny Trom, ‘The Case Study and the Study of Social Movements’ in Bert Klandermans and Suzanne Staggenborg, *Methods of Social Movement Research* (University of Minnesota Press 2002) 147.

<sup>35</sup> *ibid.*

<sup>36</sup> *ibid* 150.

through which social movements contribute to bringing social changes, an important added value of this method to the study of social movements, as highlighted by Giugni.<sup>37</sup>

While case studies allow us to examine social movements in detail, the method needs to be complemented by a comparative perspective in order for the study to cast light on the role of various factors in shaping the emergence, development and outcomes of movements. In her writing about comparative politics as a method for social movements studies, della Porta noted that comparative methods were mainly used to study “the impact of national political characteristics or important historical changes on social movements.”<sup>38</sup> Equally important, a comparative perspective opens up the possibility for generalizing the results obtained through case studies.<sup>39</sup> This point is especially important to the current study, considering that it is set in the context of voting rights activism happening on a global scale and hence the need to identify success or failure factors within and cross-national contexts.

### **1.3.2. Theoretical frameworks on determining factors and assessment of movement outcomes**

The question of assessing the outcomes of a movement, in particular whether it is a success or failure, is far more complicated than it appears to be. While writing particularly about civil resistance, Roberts raised an important point that is absolutely relevant to social movements in general: positive, adverse and ambiguous outcomes of a movement may all happen in an intertwining manner, which means that the question of what constitutes success or failure

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<sup>37</sup> Marco Giugni, ‘Introduction - How Social Movements Matter: Past Research, Present Problems, Future Developments’ in Marco Giugni, Doug McAdam and Charles Tilly (eds), *How Social Movements Matter* (University of Minnesota Press 1999).

<sup>38</sup> Donatella della Porta, ‘Comparative Politics and Social Movements’ in Bert Klandermans and Suzanne Staggenborg, *Methods of Social Movement Research* (University of Minnesota Press 2002) 290.

<sup>39</sup> Giugni (n 37).

may not be immediately or clearly answered.<sup>40</sup> Closely related is the question of in what time-frame the outcomes of a movement should be assessed;<sup>41</sup> one reason is that it is not always a simple task to pinpoint exactly when a movement starts and ends. In addition, a movement might initially fail to achieve its goal but leave valuable legacies for subsequent waves or other movements which happen alongside or at a later point in time, a phenomenon termed “spillover effects”<sup>42</sup> by Meyer and Whittier. Another possibility is that a movement might fail to achieve its goal immediately by the time it is over, but a favourable result, which might or might not have been anticipated or planned by movement organizers and participants, might happen months or years later.

Even when the question of assessing whether a particular movement is a success or failure can be adequately answered, it would be superficial to stop the analysis at this point. We should remember that social movements are social entities which do not operate in a vacuum but in interaction with a particular environment. Therefore, for thorough understanding about a movement, we should not ignore the question of why a movement developed and ended up the way it did.

The following theoretical frameworks are found to be highly relevant to the questions raised in the current study, and at the same time able to address the abovementioned issues regarding the explanation of social movements’ development and outcomes, as well as assessment of outcomes.

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<sup>40</sup> Adam Roberts, ‘Introduction’, *Civil Resistance & Power Politics: The Experience of Non-violent Action from Gandhi to the Present* (Oxford University Press 2009).

<sup>41</sup> Adam Roberts and Timothy Garton Ash, ‘Initial Questions’, *Civil Resistance & Power Politics: The Experience of Non-violent Action from Gandhi to the Present* (Oxford University Press 2009) xxi.

<sup>42</sup> David S Meyer and Nancy Whittier, ‘Social Movement Spillover’ (1994) 41 *Social Problems* 277, 278.

## Assessing movement outcomes or consequences

### *Content of outcomes or consequences*

Scholars have been discussing and debating about which types of movement outcomes or consequences one should look into. A general approach that I took when studying the outcomes of the two movements in question is open-ended, which means that instead of looking for a fixed set of result types, one should consider various kinds and degrees of achievement or defeat a movement might have, ideally as much as the scope of data that one can access allows.

My examination of outcomes and consequences was mostly guided by, but not limited to, the following categories of consequences which have been highlighted by movement theorists:

- **Policy response or political decisions by those having decision making power, who might or might not be movements' primary targets:** an important set of outcomes, which in many cases are included in primary goals set by movements. In addition, as pointed out by Giugni, policy-related outcomes are easier to measure than cultural or social ones.<sup>43</sup> For these reasons, this should be among the priority sets of consequences that one should pay attention to. It should also be noted that this type of outcomes might or might not come from those primarily targeted by movements because while organizers and participants set who would be their primary targets, it is not always possible for them to anticipate which segment of authorities will respond to their claims, and how. A closely related matter which concerns intended and unintended consequences will be discussed in detail in the next section.

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<sup>43</sup> Giugni (n 37).

On the other hand, Giugni also warned that it would be myopic to limit movement outcomes to policy changes, and emphasized that in order to have a complete picture of movement consequences, one should consider other dimensions of change, such as social, cultural, and power relations between authorities and those who challenge them.<sup>44</sup>

- **Political structure:** This set of outcomes includes changes in the composition of one or more particular branches of government at different levels.<sup>45</sup>
- **Power relations between the government and its population:** As mentioned above, Giugni argued that political effects of movements also include those related to power relations between governments and their challengers.<sup>46</sup> In addition to organizers and participants, consequences regarding power relations between authorities and the wider population should also be considered as they concern the scale of impact and implications for the political future of the society.

Some other important types of consequences which movement theorists have found include public discourse<sup>47</sup> and collective benefits for intended beneficiary groups.<sup>48</sup> In studying the consequences of the two movements in question, I tried to balance between the range of types

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<sup>44</sup> *ibid.*

<sup>45</sup> Tilly (n 4).

<sup>46</sup> Giugni (n 37).

<sup>47</sup> Donatella della Porta, 'Protest, Protesters, and Protest Policing: Public Discourses in Italy and Germany from the 1960s to the 1980s' in Marco Giugni, Doug McAdam and Charles Tilly (eds), *How Social Movements Matter* (University of Minnesota Press 1999).

<sup>48</sup> Edwin Amenta and Michael P Young, 'Making an Impact: Conceptual and Methodological Implications of the Collective Goods Criterion' in Marco Giugni, Doug McAdam and Charles Tilly (eds), *How Social Movements Matter* (University of Minnesota Press 1999).

of potential consequences to be considered and the kinds of data within my access, which will be explained in detail in another methodological section.

At this point, it should be re-emphasized that movements' consequences, including but not limited to all of the abovementioned types, should be seen as including both those that were and were not intended by organizers and participants. This point will be explained further in the next section.

### *Intended and unintended consequences*

There is a general consensus among scholars of social action and social movements about the existence and importance of *unintended* or *unanticipated consequences*, alongside their *intended* or *purposive consequences*.<sup>49</sup> As pointed out by Tarrow, outcomes of a movement are results of its interactions with multiple socio-political factors and processes,<sup>50</sup> whose dynamics constantly evolve over time. Hence, both unintended and intended consequences should be taken into consideration in the study and assessment of movements' outcomes. For instance, in many cases, besides succeeding or failing to achieve its stated or intended goals, a movement may have unintended effects such as changing public views and hence creating favourable conditions for movements with similar goals in the future, or, as mentioned above, leaving important legacies such as networks, strategies and materials for future movements.<sup>51</sup>

### *Time-frame for assessing movement outcomes*

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<sup>49</sup> For example, Charles Tilly, 'Invisible Elbow' (1996) 11 *Sociological Forum* 589, 591; Giugni (n 37) xxi; Jeff Goodwin and James M Jasper, 'Part IX - What Changes Do Movements Bring about? Introduction' in Jeff Goodwin and James M Jasper, *The Social Movements Reader: Cases and Concepts* (3rd edn, Blackwell Publishing 2015) 379; Robert K Merton, 'The Unanticipated Consequences of Purposive Social Action' (1936) 1 *American Sociological Review* 894, 894.

<sup>50</sup> Tarrow (n 1).

<sup>51</sup> Ron Eyerman and Andrew Jamison, *Music and Social Movements: Mobilizing Traditions in the Twentieth Century* (Cambridge University Press 1998); Goodwin and Jasper (n 49).

An issue raised earlier in this section regarding the assessment of movement outcomes concerns time-frame. As mentioned, it is not always possible to pinpoint exactly when a movement started and ended. Even when this question can be answered, the point or period of time when certain consequences happened is not a matter that can be easily projected, especially now that we need to leave room for both intended and unintended or unanticipated consequences. Andrews warned us about the tendency “to focus on the earliest and most visible phase of a social movement neglects the ongoing dynamics and long-term consequences of social movements,”<sup>52</sup> and emphasized that the measurement of movement outcomes must cover a broad time span in order to take into account any changes over time in relations among different variables such as mobilization and “political opportunity structures.”<sup>53</sup> To conclude this sub-section, while immediate and short-term consequences must definitely be examined, as much as one’s access to data, research schedule and other resources allow, one should aim for a wide time-frame for assessment. The wider the time-frame, the more complete a picture one can have about a movement’s consequences.

### **Determining Factors: External and Internal**

To this point, the themes covered in this discussion have broadly pointed to the notion that how social movements developed and fared is the result of the interactions between themselves and their social environment. Giugni yet highlighted that there has been a “debate between internal and external explanations” of movement outcomes.<sup>54</sup> The debate is about whether internal (or group-controlled) factors or external (or structural) ones tend to have a greater influence on a movement’s success or failure.<sup>55</sup> As Giugni pointed out, the debate

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<sup>52</sup> Kenneth T Andrews, ‘The Impacts of Social Movements on the Political Process: The Civil Rights Movement and Black Electoral Politics in Mississippi’ (1997) 62 *American Sociological Review* 800, 800.

<sup>53</sup> *ibid* 801.

<sup>54</sup> Giugni (n 37) xviii.

<sup>55</sup> Giugni (n 37).

reflects to a large extent the different perspectives of two influential theories in social movements studies: *resource mobilization theory* and *political process model*.<sup>56</sup> Resource mobilization theory views social movements through a pragmatic lens. The approach focuses on examining the kinds of resources that social movements need to mobilize to realize their “preferences for changing some elements of the social structure and / or reward distribution of a society,”<sup>57</sup> and movements’ internal organization to mobilize those resources.<sup>58</sup> Political process model was developed alongside with and, at some points, as a critique of resource mobilization theory.<sup>59</sup> The model emphasizes the role of political contexts in shaping movements’ trajectories,<sup>60</sup> yet integrates some elements of resource mobilization theory in that it also stresses the importance of “indigenous organizational strength” in order to successfully “exploit” the opportunities provided by the political environment.<sup>61</sup> Concluding about the *external vs. internal explanations* debate, Giugni argued that the debate is “more apparent than real”<sup>62</sup> because the impact of group-controlled factors indeed depend on the context surrounding the movement, i.e. external factors; and he suggested that movement scholars look for a “synthesis” of both.<sup>63</sup> Following Giugni’s approach, for the current study, I considered the role of both internal and external factors in shaping not only the outcomes but also how the movements had developed.

### **Potential internal factors**

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<sup>56</sup> *ibid* xix.

<sup>57</sup> McCarthy and Zald (n 10) 1218.

<sup>58</sup> McCarthy and Zald (n 10); J Craig Jenkins, ‘Resource Mobilization Theory and the Study of Social Movements’ (1983) 9 *Annual Review of Sociology* 527.

<sup>59</sup> Vincenzo Ruggiero and Nicola Montagna, ‘Part Four: Social Movements and the Political Process - Introduction’ in Vincenzo Ruggiero and Nicola Montagna, *Social Movements: A Reader* (Routledge 2008).

<sup>60</sup> Bert Klandermans and Suzanne Staggenborg, ‘Introduction’ in Bert Klandermans and Suzanne Staggenborg, *Methods of Social Movement Research* (University of Minnesota Press 2002).

<sup>61</sup> Doug McAdam, *Political Process and the Development of Black Insurgency, 1930-1970* (2nd edn, University of Chicago Press 1999) 43.

<sup>62</sup> Giugni (n 37) xix.

<sup>63</sup> *ibid* xx.

In examining internal explanations in the current research, I paid special attention, yet did not limit my observations, to the following internal factors, which have been found to play significant role in shaping movements' dynamics and outcomes by various scholars.

### *Mobilization strategies and structures*

McAdam, McCarthy and Zald defined *mobilizing structures* as “collective vehicles, informal as well as formal, through which people mobilize and engage in collective action,” i.e. “meso-level groups, organizations and informal networks that comprise the collective building blocks of social movements and revolutions.”<sup>64</sup> The collective nature of social movements means that mobilization is a crucial factor in determining their success or failure.

### *Framing processes*

I adopt the framework and definition of *framing processes* by McAdam, McCarthy and Zald: “conscious strategic efforts by groups of people to fashion shared understandings of the world and of themselves that legitimate and motivate collective action.”<sup>65</sup> The importance of the concept lies in its focus on “shared and socially constructed ideas in collective action.”<sup>66</sup> It is these shared ideas which “mediate” between political opportunities, mobilization and collective action.<sup>67</sup> While McAdam, McCarthy and Zald meant to include both framing by movements and by other parties such as the state, media and countermovements in the concept,<sup>68</sup> this study mostly focuses on framing by activists.

## **Potential external factors**

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<sup>64</sup> McAdam, McCarthy and Zald (n 3) 3.

<sup>65</sup> *ibid* 6.

<sup>66</sup> *ibid* 5.

<sup>67</sup> *ibid*.

<sup>68</sup> McAdam, McCarthy and Zald (n 3).

To reiterate, similarly to potential internal factors, the following potential external factors, which have been highlighted by many scholars, were given special attention as I looked into the current two cases without limiting the analysis only to these.

### *Political opportunity structures*

One of the most important contributions of political process model scholars is the concept of *political opportunity structures*. The concept draws our attention to the “broader set of political constraints and opportunities unique to the national context in which they are embedded.”<sup>69</sup> According to McAdam, McCarthy and Zald, political opportunities structures involve at least the following dimensions:

1. The relative openness or closure of the institutionalized political system
2. The stability of that broad set of elite alignments that typically undergird a polity
3. The presence of elite allies
4. The state’s capacity and propensity for repression.<sup>70</sup>

### *Other domestic external factors to be considered*

In addition to political opportunities, the following domestic external variables were also taken into consideration in the analysis: counter-movements, mainstream and social media, culture, and domestic civil society space.

### *International and regional contexts*

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<sup>69</sup> *ibid* 3.

<sup>70</sup> *ibid* 10.

While the political process model and its construction of the *political opportunity structures* concept put a heavy emphasis on domestic political systems, I propose that the international and regional socio-political contexts in which movements operate should also be considered important external factors which influence movements' development and outcomes. For the current study, the following international variables, among others, were taken into account: the development of new technology, the Internet and social media,<sup>71</sup> and the existence and development of international and regional human rights system (including international non-governmental organizations (NGOs) and supranational organizations such as the UN).

### **Drawing causal links**

Before this discussion on theoretical frameworks is closed, there is a need to mention “the problem of causality,” which Giugni called “probably the main difficulty [social movements] scholars have encountered.”<sup>72</sup> The problem concerns the question of “how to establish a causal link between a given movement and an observed change,”<sup>73</sup> given that we are observing a social phenomenon in constant interactions with various external factors. His methodological suggestions include what I have discussed so far: collecting data not only about the movements in question and their alleged outcomes but also about external factors, and a comparative research design.<sup>74</sup> However, he also warned that a quest to “[look] for general causes and invariant models is doomed to failure” since social life is too complex to follow “invariant patterns.”<sup>75</sup> Instead, he suggested searching for “historically contingent combinations of factors that shape the possibilities for movements to contribute to social

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<sup>71</sup> Jennifer Earl and Katrina Kimport, *Digitally Enabled Social Change : Activism in the Internet Age* (MIT Press 2011); Tarrow (n 1); Wim van de Donk and others, ‘Introduction: Social Movements and ICTs’ in Wim van de Donk and others, *Cyberprotest: New Media, Citizens, and Social Movements* (Routledge 2004).

<sup>72</sup> Giugni (n 37) xxiv.

<sup>73</sup> *ibid.*

<sup>74</sup> Giugni (n 37).

<sup>75</sup> *ibid* xxv.

change.”<sup>76</sup> A comparative approach is the solution if we go in the direction of searching for the specific conditions and circumstances under which certain types of impact are likely to happen.<sup>77</sup>

### **1.3.3 Research design**

The current study is designed based on the theoretical frameworks discussed in the previous section. Details on the research design are as follows.

#### *1.3.3.1 Time-frame*

Due to the fact that both the social movements in question all happened within the past five years, it is not possible to observe any long-term consequences of these movements.

Therefore, this study focuses mostly on immediate and short-term consequences for both cases, and touches on some mid-term consequences for the Malaysian case which started six years ago.

#### *1.3.3.2 Data collection and mapping*

##### **Mapping goals, outcomes and consequences**

Studying the goals set by movements is crucial in that it will shed light on the strategies and discourses that activists adopt, and the consequences that follow.

Primary sources of data regarding the movements’ goals and claims include texts produced by activists which were available online, and legal documents related to the laws or policies that the movements were targeting.

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<sup>76</sup> Doug McAdam, ‘The Biographical Impact of Activism’ in Marco Giugni, Doug McAdam and Charles Tilly, *How Social Movements Matter* (University of Minnesota Press 1999) xxv.

<sup>77</sup> Giugni (n 37).

For the Self-Nomination case, its activists used Facebook as the main channel to communicate and reach out to the public. Regarding the structure of communication, the “Vận Động Ứng Cử Đại Biểu Quốc Hội 2016” (“Advocating Running for the 2016 Legislative Elections”) Facebook Page functioned as the main site to support self-nominated candidates by providing information and knowledge about the Vietnamese electoral system, and regularly collecting and publishing stories in the Vietnamese language regarding related activities of self-nominated candidates and other actors, in particular government authorities, counter-movements and allies. The central Facebook Page had a mirror website:

*baucuquochoi.blogspot.com*, which was however less regularly updated and contained much less content in general. Self-nominated candidates mostly communicated with the public through their personal Facebook accounts or creating their own Facebook pages. Data about goals and claims set by this movement were obtained from the main Facebook page and its mirror website, self-nominated candidates’ Facebook pages and public posts from their personal Facebook accounts, all in the Vietnamese language. As this researcher’s mother tongue is Vietnamese, there was no difficulty regarding language access to the data.

Whenever data originally written in the Vietnamese language are cited in this paper, English translations will be provided.

Regarding Bersih 2, I retrieved the majority of my primary data from *www.bersih.org*, the official website of the Bersih 2.0 campaign, which Bersih 2 was part of and which has been happening until now. The website has been regularly updated throughout the campaign in the English, Malay and sometimes Mandarin languages. The data used for analysis of goals and claims were texts produced in the English language.

On a side note, although Bersih 2 effectively made use of both the English and Malay languages, the scope of this study is limited only to primary English sources due to language proficiency limit of the researcher. However, this should not be a major obstacle. Since the majority of the Malaysian population are conversant in English, texts produced by the activists were bilingual, and in general data in the English language were widely available and rich.

Regarding consequences and outcomes, since it is necessary to take into account both intended and unintended consequences, the study employed a wide range of data. Primary data include movement texts and legal documents obtained from the abovementioned sources, as well as other relevant texts issued by governments such as press releases and news articles published on government websites. Secondary sources include academic literature, publications by international NGOs and UN human rights instruments, and media sources.

### **Mapping internal and external factors**

In examining internal or group-controlled factors, including mobilization strategies and structures, and framing processes, the study made use of the texts mentioned above as the primary sources of data, together with secondary sources such as academic literatures and media sources. Due to geographical and temporal barriers, this researcher did not have access to real-time field data obtained through first-hand observations of rallies and protests.

However, since both of the movements relied heavily on social media as a public communication tool, online data would most likely reveal some important aspects of the movements' strategies and discourses.

External factors, including domestic and international ones, were examined through both primary sources of data such as government texts, for example legal documents and public statements made by authorities, and secondary sources such as academic literature, publications by international NGOs and UN human rights bodies, and media sources.

### **Putting consequences and factors together**

From a comparative perspective, the observed consequences and factors were put together and compared between the two cases to discover any patterns and possible causal links. The comparative process happened simultaneously with the analysis of consequences and factors.

#### *1.3.3.3 Data analysis*

The examination of internal and external factors was probably the most tricky part of this study since it involved handling a complex primary set of data, i.e. original texts produced by activists. The process involved examining these texts to identify themes and patterns regarding mobilization strategies and structures, and framing processes.

Regarding primary data, for the case of Self-Nomination, 130 Facebook and blog entries, dated between February and June 2016, and the candidacies of 15 specific self-nominated candidates were examined. For the case of Bersih 2, 62 entries dated between April 2010 and July 2011 from the website of the movement were studied.

### **1.3.4 Research ethics**

All the primary data obtained for the purpose of this research were retrieved from public social media platforms and websites, and therefore confidentiality was not an issue in this case.

## **CHAPTER 2. OVERVIEW OF THE TWO CHOSEN SOCIAL MOVEMENTS**

Before discussing the comparison of the two cases in detail, I shall now provide a brief overview about each movement, with a timeline of key events.

### **2.1 Viet Nam: ‘Self-Nomination for the 2016 Legislative Elections’ (‘Self-Nomination’)**

On 4 January 2016, the Politburo of the Communist Party of Viet Nam, the only political party whose power to rule the country is constitutionally recognized, issued a directive listing the goals, general principles and standards for the organization and execution of the 2016 Legislative Elections, scheduled to be held on 22 May 2016.<sup>78</sup> The directive was the first official announcement and instruction regarding the 2016 Legislative Elections by the most powerful political organization in Viet Nam.

Later in the same month, on 22 January 2016, the Standing Committee of the Viet Nam National Assembly (NA) issued a resolution which set the composition for the next NA, delineating quotas and proportions for different sectors of the population in detail.<sup>79</sup>

In February 2016, Nguyen Quang A, an outspoken democracy activist, declared his candidacy for the elections as an independent candidate, i.e. not nominated by government authorities. His pioneering self-nomination was followed in February and March by several

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<sup>78</sup> Directive by the Politburo of the Communist Party of Viet Nam on Leading the Elections of the 14th National Assembly and People’s Councils at All Levels, Term 2016 – 2021 2016 (51 - CT/TW).

<sup>79</sup> Resolution by the Standing Committee of the Viet Nam National Assembly on the Proposed Quantity, Structure and Composition of the 14th National Assembly 2016 (1135/2016/UBTVQH13).

other independent candidates’, including both known democracy activists and individuals who had not explicitly participated in the local political activist scene previously. In February 2016, the “Vận Động Ứng Cử Đại Biểu Quốc Hội 2016” (“Advocating Running for the 2016 Legislative Elections”) Facebook Page was launched. The page functioned as the main site to support self-nominated candidates by providing information and knowledge about the Vietnamese electoral system, and collecting and publishing stories in the Vietnamese language about related activities of self-nominated candidates and other actors. By the end of the registration period (mid-March 2016), according to the National Electoral Council, 162 independent candidates put themselves forward for the national legislative elections across the country.<sup>80</sup>

After three rounds of vetting, which happened between February and April, 11 self-nominated candidates made it to the final list of candidates for voting,<sup>81</sup> which later took place in 22 May 2016. Out of these 11 candidates, only two were eventually elected.<sup>82</sup>

## 2.2 Malaysia: ‘Bersih 2: Walk For Democracy’ (‘Bersih 2’)

When it was first formed in July 2005 and launched in November 2006, Bersih (meaning “clean” in the Malay language), also known by its initial English name “The Joint Action Committee for Electoral Reform,” comprised members from political parties and civil society groups.<sup>83</sup> Later named “The Coalition for Clean and Fair Elections,” its objective was “to

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<sup>80</sup> Minh Quang, ‘162 Independent Candidates Running for 14th National Assembly Elections [Cả Nước Có 162 Người Tự Ứng Cử Đại Biểu Quốc Hội Khóa XIV]’ (*Electronic Information Portal of the Viet Nam National Assembly*, 29 March 2016) <<http://quochoi.vn/tintuc/Pages/tin-hoat-dong-cua-quoc-hoi.aspx?ItemID=31216>> accessed 6 January 2017.

<sup>81</sup> Vinh An, ‘Chỉ Hai Người Tự Ứng Cử Trúng Đại Biểu Quốc Hội Khóa 14 [Only Two Self-Nominated Candidates Elected to 14th National Assembly]’ *VnExpress* (8 June 2016) <<http://vnexpress.net/tin-tuc/thoi-su/chi-hai-nguoi-tu-ung-cu-trung-dai-bieu-quoc-hoi-khoa-14-3416212.html>> accessed 6 January 2017.

<sup>82</sup> *ibid.*

<sup>83</sup> Bersih 2.0, ‘Background’ (*Bersih 2.0*, 2016) <<http://www.bersih.org/about/background/>> accessed 6 January 2017.

push for a thorough reform of the electoral process in Malaysia.”<sup>84</sup> The first Bersih rally was held in November 2007, calling for “clean and fair elections.”<sup>85</sup>

Bersih was relaunched in April 2010 as Bersih 2.0, now a non-partisan movement. Bersih 2 was the first campaign held by Bersih under this new identity. The plan for Bersih 2 rally was announced in May 2011, and the rally took place on 9<sup>th</sup> July 2011 around the Merdeka Stadium in Kuala Lumpur, introducing the eight demands for clean and fair elections.<sup>86</sup> According to the organizers’ own statistics, 50,000 people participated in the rally.<sup>87</sup> The event was met with crackdown by the police.

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<sup>84</sup> *ibid.*

<sup>85</sup> *ibid.*

<sup>86</sup> Bersih 2.0, ‘BERSIH 2: Walk For Democracy (9 July 2011)’ (*Bersih 2.0*, 9 July 2011) <<https://www.bersih.org/rallies/bersih2/>> accessed 6 January 2017.

<sup>87</sup> *ibid.*

## CHAPTER 3. CONVERGENCE AND DIVERGENCE

In this section, I shall present my findings regarding relevant external and internal factors, and outcomes of the two chosen movements.

### 3.1 External factors

#### 3.1.1 Domestic factors

##### *3.1.1.1 Institutionalized political systems and socio-political environment, and any relevant events that preceded the movements*

To elaborate, by “institutionalized political systems,” I particularly looked into some key dimensions of political opportunities structures in McAdam, McCarthy and Zald’s framework, namely “the relative openness or closure of the institutionalized political system,” and “the state’s capacity and propensity for repression.”<sup>88</sup> I also examined relevant aspects of electoral systems. In addition, where relevant, I shall discuss related events which preceded the movements in question and might have had an influence on their development.

#### **Viet Nam**

Between the two cases, Viet Nam is widely known to have the more closed and authoritarian political system. International human rights NGOs consistently rated Viet Nam as among the most repressive regimes in the world in 2016. For example, in its annual “Freedom in the World” report, Freedom House rated Viet Nam’s *freedom status* as “Not Free.”<sup>89</sup> The *freedom rating index* is the average of a country’s political rights (comprising the following criteria: *electoral process, political pluralism and participation, and functioning of government*), and civil liberties (comprising the following criteria: *freedom of expression and*

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<sup>88</sup> McAdam, McCarthy and Zald (n 3) 10.

<sup>89</sup> Freedom House, ‘Vietnam (Country Report) - Freedom in the World 2016’ (2016) <<https://freedomhouse.org/report/freedom-world/2016/vietnam>> accessed 11 January 2017.

*belief, associational and organizational rights, rule of law, and personal autonomy and individual rights*) ratings.<sup>90</sup> Similarly, Amnesty International's 2016 Country Report on Viet Nam highlighted the problem of regular harassment of independent activist groups in various forms such as "surveillance, restrictions on movement, arbitrary short-term detention and physical attacks by police and unidentified men suspected of working in collusion with security forces," and the fact that at least 45 "prisoners of conscience" were in detention, many under harsh conditions and abusive treatment.<sup>91</sup>

The problems identified by international human rights NGOs can be easily understood given that the country is under the authoritarian ruling of a single political party, the Communist Party of Viet Nam. Founded between 1925 and 1930, the Party first established its political power in North Viet Nam in 1945,<sup>92</sup> and has been ruling the country's current territory since 1975, and its supremacy is recognized under Article 4 of the Constitution.<sup>93</sup> Sidel revealed that there had been efforts to call for democratization in the North in 1956, yet these initial attempts were later crushed.<sup>94</sup>

Academic studies about contemporary Viet Nam to a certain extent converge with findings by international human rights NGOs. London highlighted that although the Vietnamese people are now more interested in politics and that the country's political culture seems to

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<sup>90</sup> Freedom House, 'Methodology: Freedom in the World 2016' (2016) <<https://freedomhouse.org/report/freedom-world-2016/methodology>> accessed 11 January 2017.

<sup>91</sup> Amnesty International, 'Viet Nam 2015/2016 (Annual Country Report)' (*Amnesty International*, 2016) <<https://www.amnesty.org/en/countries/asia-and-the-pacific/viet-nam/report-viet-nam/>> accessed 11 January 2017.

<sup>92</sup> Jonathan D London, 'Politics in Contemporary Vietnam' in Jonathan D London, *Politics in Contemporary Vietnam: Party, State, and Authority Relations* (Palgrave Macmillan 2014).

<sup>93</sup> Hiến Pháp Nước Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam [The Constitution of the Socialist Republic of Viet Nam] 2013 (Unofficial translation from Vietnamese by IDEA - International Institute for Democracy and Electoral Assistance).

<sup>94</sup> Mark Sidel, *Law and Society in Vietnam: The Transition from Socialism in Comparative Perspective* (Cambridge University Press 2008).

have evolved, the country's leadership has remained "suspicious of and resistant to external scrutiny,"<sup>95</sup> and that dissident activities are subject to severe punishment.<sup>96</sup> Thayer, in his study about the repression apparatus of the authoritarian regime, pointed out that pro-democracy activists are among the key groups which are the targets of repression, together with religious freedom activists, and that the state has been using "enormous resources"<sup>97</sup> to deal with this "tiny" number of targets.<sup>98</sup> Thayer also documented "three components of repression" employed by the Vietnamese state: (i) *monitoring and surveillance*; (ii) *harassment and intimidation of individuals of concern, family members, and employers*; (iii) *and arrest, detention, trial, imprisonment, and house arrest after release*.<sup>99</sup>

While most sources pointed out the generally repressive nature of the regime, some scholars observed nuances in how the authorities dealt with civil society in the country. In his study about repression (and toleration) of dissidents by the Vietnamese government, Kerkvliet observed "a lack of uniformity" in the state's repression of dissent.<sup>100</sup> He noticed that while intimidation in forms such as public denouncement and harassment (for instance, tapping and cutting phone lines, hacking email correspondences, shutting down dissidents' and their organizations' websites, or even in violent forms such as street assaults) is common, not all dissidents experienced confinement (i.e. detention and interrogation, arrest, or imprisonment), and that for those who did, the degree and extent of the confinements also varied.<sup>101</sup>

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<sup>95</sup> London (n 92) 3.

<sup>96</sup> London (n 92).

<sup>97</sup> Carlyle A Thayer, 'The Apparatus of Authoritarian Rule in Vietnam' in Jonathan D London, *Politics in Contemporary Vietnam: Party, State, and Authority Relations* (Palgrave Macmillan 2014) 136.

<sup>98</sup> Thayer (n 97).

<sup>99</sup> *ibid* 145.

<sup>100</sup> Benedict J Tria Kerkvliet, 'Government Repression and Toleration of Dissidents in Contemporary Vietnam' in Jonathan D London, *Politics in Contemporary Vietnam: Party, State, and Authority Relations* (Palgrave Macmillan 2014) 102.

<sup>101</sup> Kerkvliet (n 100).

Since the current research focuses on political activism surrounding the Legislative Elections, it is important to discuss key characteristics of this body and how the NA electoral system works in the country. The Constitution establishes supreme power for the body as follows. More details on specific duties and powers of the NA, as mandated by Article 70 of the Constitution, are shown in the appendix.

#### **Article 69.**

The National Assembly is the highest representative body of the People and the highest body of State power of the Socialist Republic of Vietnam.

The National Assembly exercises constitutional and legislative powers, decides significant national affairs and exercises supreme control over all activities of the State.<sup>102</sup>

However, in reality, as Hayton and London pointed out, although the body has evolved and gained more significance over time, it is still “subordinate to the Politburo,”<sup>103</sup> or “a tool of the Party,”<sup>104</sup> like the rest of the government, as one could expect in a single-party regime.

The NA is composed of representatives who are elected for five year terms and represent different provinces, although this representation can be notional in the cases of centrally nominated candidates who usually never reside or work in the provinces they represent.<sup>105</sup> It is always the case that only 10% or less of delegates are non-Party members,<sup>106</sup> and a

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<sup>102</sup> Hiến Pháp Nước Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam [The Constitution of the Socialist Republic of Viet Nam] (n 93).

<sup>103</sup> London (n 92) 9.

<sup>104</sup> Bill Hayton, *Vietnam Rising Dragon* (Yale University Press 2010) 94.

<sup>105</sup> Hayton (n 104).

<sup>106</sup> Kerkvliet (n 100); London (n 92); Hayton (n 104).

minimal number of self-nominated candidates eventually gets elected.<sup>107</sup> Freedom House documented that in the 2011 Legislative Elections, Party members got 454 seats, officially nominated non-party members took 42 seats, and self-nominated candidates won only 4.<sup>108</sup>

In order to have a better understanding of why the composition of the NA is the way it is, one needs to look into the process of Legislative Elections, which is established by the Law on National Assembly and People's Committees Elections ('Election Law') and various unspoken rules. According to the Election Law, at least 105 days before the election day, the National Assembly's Standing Committee determines the proposed composition of the new Assembly, namely the number of delegates to be elected from different sectors or interest groups, such as women, ethnic minorities, military, religious groups, the youth union, the elderly etc.<sup>109</sup> The first round of negotiation, organized by the Viet Nam Fatherland Front (VFF), happens at both central and municipal levels in the format of a convention in which different sections of the central and municipal governments discuss and agree on, or, in Hayton's words to describe what happens in reality, "haggle" or "jockey for"<sup>110</sup> their share of the number of people they can nominate.<sup>111</sup> The VFF's mandate as established under the Constitution sounds rather similar to some kind of civil society.<sup>112</sup> However, in reality, it effectively functions as a state body whose job is to build "mass support"<sup>113</sup> for the CPV

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<sup>107</sup> Hayton (n 104).

<sup>108</sup> Freedom House, 'Vietnam (Country Report) - Freedom in the World 2016' (n 89).

<sup>109</sup> Luật Bầu Cử Đại Biểu Quốc Hội và Đại Biểu Hội Đồng Nhân Dân [Law on National Assembly and People's Committees Elections] 2015 art. 8; Hayton (n 129).

<sup>110</sup> Hayton (n 104) 99.

<sup>111</sup> Luật Bầu Cử Đại Biểu Quốc Hội và Đại Biểu Hội Đồng Nhân Dân [Law on National Assembly and People's Committees Elections] art. 38-39 (n 133).

<sup>112</sup> See the appendix for more details.

<sup>113</sup> Hayton (n 104) 98.

through its extensive network of mass organizations established at all levels of government, from central to local,<sup>114</sup> as mentioned in article 9 paragraph 2 above.

After the first round of negotiation, at least 70 days before the election day, candidates, including both those who are nominated by central or local government bodies and self-nominated, submit their candidature application, which includes an application form, a personal profile certified by an authority, a short biography, and an asset declaration, to the National Electoral Council (for centrally nominated candidates) or to local Electoral Committees (for the rest).<sup>115</sup> These authorities will then vet through the applications to decide which applicants are allowed to the second round of negotiation.<sup>116</sup> Usually, the vetting in the first round of negotiation is not too difficult for most candidates to pass as it is basically just a criminal record check.<sup>117</sup> In the second round of negotiation, each candidate goes through two “constituent meetings” (*hội nghị cử tri* in Vietnamese), one at their workplace and the other in their neighbourhood, in which some constituents are invited to attend and voice their opinions about the prospective candidate, and afterwards cast their “vote of confidence” on whether the candidate should be nominated or not.<sup>118</sup> Candidates nominated through government bodies mostly do not encounter any issue during these constituent meetings, which indeed are just token procedures for them. On the contrary, self-nominated candidates usually face great challenges in either or both of such meetings. Those held in candidates’ neighbourhoods are organized by local VFF committees,<sup>119</sup> who strategically select “constituent representatives” to attend the meetings. Some self-nominated candidates in the

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<sup>114</sup> Nadine Reis, ‘Civil Society and Political Culture in Vietnam’ in Gabi Waibel, Judith Ehlert and Hart N Feuer, *Southeast Asia and the Civil Society Gaze: Scoping a contested concept in Cambodia and Vietnam* (Routledge 2014).

<sup>115</sup> Luật Bầu Cử Đại Biểu Quốc Hội và Đại Biểu Hội Đồng Nhân Dân [Law on National Assembly and People’s Committees Elections] art. 35-36 (n 133).

<sup>116</sup> *ibid* art. 36.

<sup>117</sup> *ibid* art. 37.

<sup>118</sup> *ibid* art. 43, 44, 45.

<sup>119</sup> London (n 92).

previous years revealed that harsh criticisms and accusations from these representatives were “hurled” at them.<sup>120</sup> Self-nominated candidates whose workplace is a public institution such as schools, research institutes or government bodies might have similar experiences.<sup>121</sup> Even when candidates manage to pass the second round of negotiation, the third and final round of negotiation, which is organized at the central level by the VFF, might overturn previous decisions on the proposed composition of the new NA, and might eliminate “undesired”<sup>122</sup> candidates.<sup>123</sup> The third round is also the occasion when the VFF decides which centrally nominated candidates will be allocated to which constituency in order to minimize competition for them.<sup>124</sup> At the municipal level, local election committees decide which locally nominated candidates will run in which constituency, again in order to ensure that the higher-profile local politicians will win.<sup>125</sup> Only after the third round of negotiation will the final list of candidates be ready for the ballot.<sup>126</sup> Expectedly, very few self-nominated candidates manage to get through this round.

On the election day, voters’ decisions are mainly based on very brief biographies about candidates.<sup>127</sup> Proxy voting, i.e. one person, usually the head of a household, casting votes of the whole family or even members of VFF mass organizations offering to vote on behalf of those who do not plan to go to the polls, though illegal, is common.<sup>128</sup> Turnouts in all provinces, as reported by local authorities, are always extremely high, i.e. close to 100%. The result is a new NA with the structure and composition as described above, although

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<sup>120</sup> Hayton (n 104) 100.

<sup>121</sup> Hayton (n 104).

<sup>122</sup> London (n 92) 10.

<sup>123</sup> Hayton (n 104).

<sup>124</sup> *ibid.*

<sup>125</sup> *ibid.*

<sup>126</sup> *ibid.*

<sup>127</sup> *ibid.*

<sup>128</sup> *ibid.*

sometimes the initial proposed composition is not precisely met due to the cumbersome nature of the whole process.

## Malaysia

### *General political environment*

Malaysia has been consistently rated as “Partly Free” in *freedom status* by Freedom House in its annual “Freedom in the World” reports during the past 10 years.<sup>129</sup> Out of a seven-point scale with 1 as “Most Free” and 7 as “Least Free,” Malaysia’s *freedom rating* has always been 4, and Viet Nam’s has been 6 during this period.

We shall now look deeper into the institutionalized political system of the country qualitatively to understand the political environment in which *Bersih 2* developed and operated. Malaysia was a British colony and later gained independence from Britain in 1957. The ruling coalition, *Barisan Nasional* (BN in short, meaning “National Front” in English), has won all 13 general elections since 1957, and won at least a two-thirds majority of seats in the parliament until the 2008 (11<sup>th</sup>) general elections. There have been changes in the number

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<sup>129</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2006’ (2006) <<https://freedomhouse.org/report/freedom-world/2006/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (2007) <<https://freedomhouse.org/report/freedom-world/2007/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (2008) <<https://freedomhouse.org/report/freedom-world/2008/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2009’ (2009) <<https://freedomhouse.org/report/freedom-world/2009/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2010’ (2010) <<https://freedomhouse.org/report/freedom-world/2010/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2011’ (2011) <<https://freedomhouse.org/report/freedom-world/2011/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2012’ (2012) <<https://freedomhouse.org/report/freedom-world/2012/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2013’ (2013) <<https://freedomhouse.org/report/freedom-world/2013/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2014’ (2014) <<https://freedomhouse.org/report/freedom-world/2014/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2015’ (2015) <<https://freedomhouse.org/report/freedom-world/2015/malaysia>> accessed 18 February 2017; Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2016’ (2016) <<https://freedomhouse.org/report/freedom-world/2016/malaysia>> accessed 18 February 2017.

of BN's member parties over time, but in the past 10 years it has slightly fluctuated between 12 to 15 parties, most of which are ethnic or region-based, and dominated by the Malay-based United Malays' National Organization (UMNO), but also include the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC).<sup>130</sup>

The country has a federal parliamentary government.<sup>131</sup> The leader of the party that wins the majority of seats in general elections is named as prime minister.<sup>132</sup> Executive power is vested in the prime minister and cabinet.<sup>133</sup> Mahathir Mohamad, Malaysia's fourth and longest-serving prime minister (between 1981 and 2003), led the country to achieve dramatic economic growth, yet on the other hand restrained civil liberties and adopted a hostile approach towards political opponents.<sup>134</sup> A typical example is the nearly two-decade long tragedy of Anwar Ibrahim, a leading opposition figure who has got in and out of jail, and in again in 2015, for sodomy convictions since the late 1990s, a case criticized by Human Rights Watch as "politically motivated."<sup>135</sup> During Mahathir's tenure, political power has also become concentrated in the prime minister's hands.<sup>136</sup> His tenure has left an imprint on the contemporary political environment of Malaysia.

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<sup>130</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2006' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2007' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2009' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2010' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2011' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2012' (n 129).

<sup>131</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>132</sup> *ibid.*

<sup>133</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2016' (n 129).

<sup>134</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2006' (n 129).

<sup>135</sup> Human Rights Watch, 'Malaysia: End Anwar Ibrahim Incarceration' (*Human Rights Watch*, 8 February 2016) <<https://www.hrw.org/news/2016/02/08/malaysia-end-anwar-ibrahim-incarceration>> accessed 27 February 2017.

<sup>136</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2006' (n 129).

Malaysia has a bicameral federal parliament. According to Freedom House's reports, as of between 2007 and 2016, the upper house, or Senate (*Dewan Negara*),<sup>137</sup> is comprised of 44 nonelected appointees and 26 other members who are elected by the state legislatures, serving three-year terms.<sup>138</sup> The lower house, or House of Representatives (*Dewan Rakyat*),<sup>139</sup> was composed of 219 seats as of 2007,<sup>140</sup> and the number was increased to 222 in 2008.<sup>141</sup> Members of the lower house are elected through popular votes at least every five years.<sup>142</sup> In its 2008 annual report, Freedom House observed that the parliament's deliberative role has deteriorated since the 1970s, and opposition parties' opinions were in general not seriously considered in the BN-dominated parliament, at least as of year 2007 and earlier, during which the first Bersih rally, i.e. the precedent of Bersih 2.0, took place.

The titular head of state is the king (*Yang di-Pertuan Agong*, or "Paramount Ruler"), who is elected by fellow hereditary rulers from 9 of 13 states.<sup>143</sup>

### *Electoral system*

So as the case of Self-Nomination, the national electoral system was the very target of Bersih 2. As mentioned above, during general elections, Malaysians cast votes to elect members of

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<sup>137</sup> Lim Hong Hai, 'Electoral Politics in Malaysia: "Managing" Elections in a Plural Society' [2002] *Electoral Politics in Southeast and East Asia* 101, 102.

<sup>138</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2007' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2009' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2010' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2011' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2012' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2013' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2014' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2015' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2016' (n 129).

<sup>139</sup> Hai (n 137) 102.

<sup>140</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>141</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2009' (n 129).

<sup>142</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>143</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2016' (n 129).

the lower house of the parliament, and the leader of the party who wins the majority of seats in the general election is named prime minister.

General elections to the lower house are conducted by an Election Commission (EC), which has the mandate to prepare and revise electoral rolls, review and recommend changes to the division of the federation into constituencies.<sup>144</sup> The EC's independence has been a subject of question and critique by opposition parties and independence observers.<sup>145</sup> In most of its annual "Freedom in the World" reports for the past 10 years, through different general elections, Freedom House has observed frequent allegations of electoral roll manipulations and gerrymandering in favour of the ruling coalition.<sup>146</sup> Article 114 paragraph (5A) of the Federal Constitution, added in the 1962 amendment, enables the government, through its control of the parliament,<sup>147</sup> to determine the terms of office of members of the EC other than their remuneration. As Hai pointed out, Articles 5 and 6 of the Election Commission Act effectively protect any attempt by the government to influence the EC from being prosecuted.<sup>148</sup>

5. No person shall in any legal proceedings be permitted or compelled to produce or disclose any communication written or oral which has taken place between the Election Commission or any member of the Commission and the Government or any Minister or public officer or any communication between members of the Election

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<sup>144</sup> Federal Constitution of Malaysia 2010 art. 113 (1), 113 (2) (i).

<sup>145</sup> Graham K Brown, 'Playing the (Non)ethnic Card: The Electoral System and Ethnic Voting Patterns in Malaysia' (2005) 4 *Ethnopolitics* 429.

<sup>146</sup> For example, see Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2011' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2012' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2013' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2016' (n 129).

<sup>147</sup> Hai (n 137); Federal Constitution of Malaysia (n 144) art. 114 (5A).

<sup>148</sup> Hai (n 137).

Commission in exercise of or in connection with the exercise of the functions of the Commission unless the Yang di-Pertuan Agong shall in writing consent to such production or disclosure.<sup>149</sup>

6. Every member of the Election Commission shall have the like protection and privileges in case of any action or suit brought against him for any act done or omitted to be done by him when acting in the execution of his office as is by law given to a Magistrate acting in the execution of his office.<sup>150</sup>

These provisions make it extremely difficult for the EC to resist manipulations by the BN-controlled government.<sup>151</sup>

The EC's performance in its role of managing electoral rolls has been highly criticized for "persistent inaccuracies."<sup>152</sup> As mandated under the Elections (Registration of Electors) Regulations 2002, this role of the EC involves reviewing and, if necessary, updating current electoral rolls by eliminating names of electors who have died or have become disqualified, and adding names of newly registered electors and registered electors whose registration is transferred to different registration areas.<sup>153</sup> Criticisms have particularly targeted the prevalence of the phenomena of "missing" and "phantom" voters.<sup>154</sup> The former are those who are eligible and registered yet whose names are missing from the electoral rolls, while the latter are those who are ineligible yet registered and whose names are included in the

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<sup>149</sup> Election Commission Act 1957 (Revised 1970) 1957 art. 5.

<sup>150</sup> *ibid* art. 6.

<sup>151</sup> Hai (n 137).

<sup>152</sup> *ibid* 115.

<sup>153</sup> Elections (Registration of Electors) Regulations 2002 art. 10 & 11.

<sup>154</sup> Brown (n 145) 433; Hai (n 137) 115.

electoral rolls.<sup>155</sup> For some general elections, the scale of discrepancy was considerable. For example, after the 1990 general elections, the EC leadership themselves admitted that the number of voters affected was as many as 300,000, i.e. equivalent to 4 percent of the electorate.<sup>156</sup>

Another highly criticized facet of Malaysia's electoral system concerns constituency delineation and apportionment. The process of determining electoral constituencies for general elections in Malaysia involves two steps: first, the apportionment of seats among the different states; and second, the delineation of constituencies within each state.<sup>157</sup> Since the beginning of its rule in 1957, the ruling coalition has initiated multiple amendments to the Federal Constitution. Between 1957 and 2006, the Constitution were amended 50 times.<sup>158</sup> Among the most "extensive and far-reaching" of these changes have been those concerning electoral constituencies.<sup>159</sup> A typical example is the Thirteenth Schedule, which was added in 1962. While the EC can make recommendations regarding delimitation of constituencies, i.e. step two of the process, the prime minister can modify such recommendations before submitting them to the parliament for approval.<sup>160</sup> Regarding step one, through its control of the parliament, the ruling coalition can make amendments to Article 46 of the Federal Constitution, which defines the total number of members and apportionment of parliamentary seats among different states.<sup>161</sup> In addition, whenever there is an amendment to Article 46

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<sup>155</sup> Hai (n 137).

<sup>156</sup> *ibid* 115.

<sup>157</sup> Hai (n 137).

<sup>158</sup> CL Lim, 'Malaysia - (1957-2007) Fifty Years, Fifty Amendments and Four Principal Developments' in Clauspeter Hill and Jörg Menzel, *Constitutionalism in Southeast Asia - Volume 2: Reports on National Constitutions* (Konrad-Adenauer-Stiftung 2008).

<sup>159</sup> Hai (n 137) 112.

<sup>160</sup> Federal Constitution of Malaysia (n 144) Thirteenth Schedule, art. 8, 9 & 10.

<sup>161</sup> Hai (n 137).

regarding the number of elected members of the parliament, the requirement of an eight-year gap between two reviews of constituency delineation by the EC can even be mitigated.<sup>162</sup>

The actual conduct and procedures of elections are, in their turns, questionable. The problems partly lie in the EC's own conduct, yet in some cases they were not necessarily in the EC's control or will. Firstly, regarding campaign period, in the EC's regulations, over time, the minimum campaign period had been reduced from 21 to 14 days in 1971, and 7 days in 1986; and in actual practice, from 35 days before 1975 to nine or ten days since 1986.<sup>163</sup> The EC justified the shortening of campaign period on the grounds of "security."<sup>164</sup> In reality, it put opposition parties at considerable disadvantage compared to the ruling coalition, since the leaders of the ruling party, through their control of the government, had many opportunities to approach and communicate with voters "under other guises" before the official campaign period started.<sup>165</sup> Another huge obstacle for opposition parties in the campaigning process is the lack of access to campaigning channels.<sup>166</sup> Open-air public rallies have been banned since 1978.<sup>167</sup> Media coverage, though theoretically possible, is not the most accessible campaigning channel for opposition parties in reality, due to government control and self-censorship by mass media outlets.<sup>168</sup> In fact, main newspapers are owned by the government, and licensing conditions are extremely strict.<sup>169</sup> Abbott observed that the two leading Malay-

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<sup>162</sup> Federal Constitution of Malaysia (n 144) art. 113 (1), (2) (i), (2) (ii), (3A) (i); Hai (n 137).

<sup>163</sup> Hai (n 137).

<sup>164</sup> *ibid* 124.

<sup>165</sup> *ibid*.

<sup>166</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2006' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2007' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>167</sup> Hai (n 137).

<sup>168</sup> *ibid*.

<sup>169</sup> Wang Lay Kim, 'Media and Democracy in Malaysia' (2001) 8 *Javnost - The Public* (Journal of the European Institute for Communication and Culture) 67.

language newspapers in Malaysia demonstrated a “strong bias” towards the ruling party, and, on the other hand, were critical of the opposition.<sup>170</sup>

The polling process is also dotted with criticisms. Many postal voters who are members of the police, military and civil servants and who will supposedly be absent on the polling day because of duty allegedly usually voted for the ruling coalition, or cast their votes without proper supervision by the EC, and consequently helped candidates of the ruling coalition win in closely fought competitions.<sup>171</sup> Another criticism by opposition parties is that the way the ballot paper is designed makes it possible to track the identity of the elector of each vote as the serial number of the elector is printed on both the ballot paper and its counterfoil.<sup>172</sup>

Before this sub-section is closed, it is worth mentioning a key feature of Malaysia’s electoral system: the first-past-the-post voting system. This system has work well in favour of the ruling coalition. As Brown observed, until 2005, the system enabled the ruling party to win an average of 80.8 percent of parliamentary seats, despite winning only an average of 57.6 percent of votes since the 1959 general elections.<sup>173</sup> Opposition parties, on the other hand, only won 18 out of 219 seats in the lower house, despite winning more than 40 percent of popular votes in the 2004 general elections.<sup>174</sup>

### *Political corruption*

Malaysia’s ranking in Transparency International’s annual Corruption Perceptions Index during the past decade has been around the 44 to 52 out of 100 (with 100 as “highly clean”

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<sup>170</sup> Jason P Abbott, ‘Electoral Authoritarianism and the Print Media in Malaysia: Measuring Political Bias and Analyzing Its Cause’ (2011) 38 Asian Affairs: An American Review 1, 23.

<sup>171</sup> Hai (n 137).

<sup>172</sup> *ibid.*

<sup>173</sup> Brown (n 145).

<sup>174</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (n 129).

and 0 as “highly corrupt”).<sup>175</sup> Noticeably, over the 2009-2011 period, during which Bersih 2 happened, the score fell to below 50,<sup>176</sup> which marked “serious perceived levels of domestic corruption.”<sup>177</sup> According to Freedom House, corruption in the ruling coalition, in particular bribery and cronyism, has been common.<sup>178</sup> Mahathir’s successor, Abdullah Ahmad Badawi, failed to meet his anti-corruption campaign promises, as corruption reportedly worsened among ruling coalition members in 2007, the very year that the first Bersih rally took place.<sup>179</sup>

Stopping corruption was indeed one of the eight key demands from Bersih 2 addressed to the government.

### *Judicial independence and civil liberties*

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<sup>175</sup> Transparency International, ‘Corruption Perceptions Index 2006’ (2006) <[http://www.transparency.org/research/cpi/cpi\\_2006/0/](http://www.transparency.org/research/cpi/cpi_2006/0/)> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2007’ (2007) <[http://www.transparency.org/research/cpi/cpi\\_2007/0/](http://www.transparency.org/research/cpi/cpi_2007/0/)> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2008’ (2008) <[http://www.transparency.org/research/cpi/cpi\\_2008/0/](http://www.transparency.org/research/cpi/cpi_2008/0/)> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2009’ (2009) <[http://www.transparency.org/research/cpi/cpi\\_2009/0/](http://www.transparency.org/research/cpi/cpi_2009/0/)> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2010’ (2010) <<http://www.transparency.org/cpi2010/results>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2011’ (2011) <<http://www.transparency.org/cpi2011/results>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2012’ (2012) <<http://www.transparency.org/cpi2012/results>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2013’ (2013) <<http://www.transparency.org/cpi2013/results>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2014’ (2014) <<http://www.transparency.org/cpi2014/infographic>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2015’ (2015) <<http://www.transparency.org/cpi2015#results-table>> accessed 27 February 2017; Transparency International, ‘Corruption Perceptions Index 2016’ (2016) <[https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016)> accessed 27 February 2017.

<sup>176</sup> Transparency International, ‘Corruption Perceptions Index 2009’ (n 175); Transparency International, ‘Corruption Perceptions Index 2010’ (n 175); Transparency International, ‘Corruption Perceptions Index 2011’ (n 175).

<sup>177</sup> Transparency International, ‘Corruption Perceptions Index 2006’ (n 175).

<sup>178</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2006’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2009’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2010’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2011’ (n 129).

<sup>179</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (n 129).

Freedom House observed that judicial independence has been “significantly compromised” during the past two decades.<sup>180</sup> There have been several allegations of politically motivated prosecutions and verdicts.<sup>181</sup>

During the past decade, civil liberties in Malaysia have been reported to be limited, and even decline at some points. As in 2005-2006 period, shortly before the launch of the first Bersih, and even a few years later when Bersih was relaunched as Bersih 2.0, freedom of assembly and association was limited on the grounds of security and public order.<sup>182</sup> All public assemblies, except for picket lines, were required to obtain a police permit, whose granting was “sometimes politically influenced.”<sup>183</sup> Freedom of assembly and association in the country was reported to even decline in 2007 ahead of the 2008 general elections.<sup>184</sup> A typical example was the suppression of peaceful protests during 2007, including the first Bersih.<sup>185</sup> Freedom of expression has also been reported to be restricted in the country in the past decade. Mainstream media is either owned or heavily censored by the government. Since the late 1990s, Malaysians have turned to the Internet as an alternative channel for discussion, debate, exposing political corruption,<sup>186</sup> and, last but not least, gathering support for movements. However, this alternative space was also interfered. The year 2007 also saw a

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<sup>180</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2011’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2012’ (n 129).

<sup>181</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2011’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2012’ (n 129).

<sup>182</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2006’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2012’ (n 129).

<sup>183</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2006’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2007’ (n 129); Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2012’ (n 129).

<sup>184</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2008’ (n 129).

<sup>185</sup> *ibid.*

<sup>186</sup> Freedom House, ‘Malaysia (Country Report) - Freedom in the World 2009’ (n 129).

decline in freedom of expression in Malaysia, with threats of arrests and the first defamation charges against bloggers.<sup>187</sup>

Mahathir's influential rhetoric of "Asian values" explains to a large extent the Malaysian government's attitude towards pro-democracy civil society and dissent. Mahathir's discourse is a typical example of what human rights scholars called "relativism."<sup>188</sup> Mahathir labelled initiatives from civil society which identified their cause in line with universalist human rights or environmentalism as "aping The West," being used by "western agents" to "destablise and impoverish the nation," and going against "Asian values."<sup>189</sup>

### *Ethnic politics*

An inherent feature of Malaysian politics that is distinct from the case of Viet Nam is that ethnic politics has always been at the fore in the socio-political environment of the country. This does not mean that ethnicity is totally absent in the political environment of Viet Nam, or that the population of the other country is homogeneous in terms of ethnicity. Indeed, while the population of Viet Nam is predominantly Kinh, other ethnic minority groups exist alongside with these ethnic majority groups, and ethnic politics manifests in one way or another in the socio-political life of these societies. Yet, for the case of Malaysia, it is an all-pervasive issue.

According to the 2010 Population and Housing Census of Malaysia, the *bumiputra*, or *bumiputera* (literally meaning "sons of the soil," or indigenes)<sup>190</sup> constituted 67.4% of the

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<sup>187</sup> *ibid.*

<sup>188</sup> Susan Marks and Andrew Clapham, *International Human Rights Lexicon* (OUP: Oxford 2005) 387.

<sup>189</sup> Meredith L Weiss and Saliha Hassan, 'Introduction: From Moral Communities to NGOs' in Meredith L Weiss and Saliha Hassan, *Social Movements in Malaysia: From Moral Communities to NGOs* (RoutledgeCurzon 2012) 10–11.

<sup>190</sup> Hai (n 137) 102.

population.<sup>191</sup> *Bumiputra* is an ethnic category that is composed of the Malays and natives of Sabah and Sarawak,<sup>192</sup> while all the other ethnic groups, namely the Chinese, Indians and “Others,” are labelled as “non-*bumiputra*,” or “immigrant races.”<sup>193</sup> *Bumiputra* citizens are given special privileges that are constitutionally guaranteed. The “principle of special rights”<sup>194</sup> for the Malays, which is enshrined in the constitution, affects most domains of the society: politics and administration, economics and business, education, language, culture and religion.<sup>195</sup> As Haque highlighted, in Malaysia, what is known as “affirmative action” elsewhere manifests as “preferential policies,” which are designed to favour a particular ethnic group supposedly on the grounds of indigeneity.<sup>196</sup> The approach has been criticized as “racially discriminatory” both constitutionally and in practice.<sup>197</sup>

Relevant to the topic of this study, the “special rights” principle was also translated to the electoral process. Previously, it manifested in the form of manipulation of constituency delineation by the ruling party through its control of the government and influence on the EC to increase the Malay electoral advantage through Malay-dominated rural constituencies for decades.<sup>198</sup> The constituency re-delineation exercise in 2002 shifted to reflect a “direct political bias” in favour of the ruling coalition to adapt to Malay urbanisation and changing

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<sup>191</sup> Malaysia Department of Statistics, ‘Population and Housing Census of Malaysia: Population Distribution and Basic Demographic Characteristics 2010’ (2010) 5.

<sup>192</sup> Hai (n 137).

<sup>193</sup> *ibid* 102.

<sup>194</sup> M Shamsul Haque, ‘The Role of the State in Managing Ethnic Tensions in Malaysia’ (2003) 47 *American Behavioral Scientist* 240, 244.

<sup>195</sup> Haque (n 194).

<sup>196</sup> *ibid* 244; Charles Hirschman, ‘Census Classifications and Racial Ideology in Malaysia’ (University of California-Irvine Robin M. Williams Lecture, Irvine, CA, 4 April 2014) <<http://cast.nacs.uci.edu/argonza/lectures/hirschman.html>>.

<sup>197</sup> *The Economist*, ‘The Slaughter of Sacred Cows’ *The Economist* (3 April 2003)

<<http://www.economist.com/node/1677328>> accessed 4 March 2017.

<sup>198</sup> Brown (n 145); Hai (n 137).

ethnic voting tendencies.<sup>199</sup> However, the ultimate motive was still to guarantee a victory for the ruling coalition, which is led by a Malay-dominated party.

The fact that ethnicity, and consequently religion and language, is at the heart of Malaysian politics for decades since day one of the country's independence, if not for centuries under British colonial rule, is a real challenge for Bersih 2 activists regarding the crucial task of organizing united forces and collective support across ethnic groups, given that ethnic-related interests have been fundamental to the manipulation of the electoral system.

### *Specific events happening ahead of Bersih 2*

As demonstrated above, Bersih 2 was obviously born into an unfavourable political environment and a relatively limited space for civil liberties. In McAdam, McCarthy and Zald's framework, these factors were political constraints for the movement. At the same time, as mentioned, many facets of the political environment were also the targets of change set by Bersih 2. On the other hand, some specific events that happened ahead of its launch can be considered political opportunities for it to happen.

Firstly, as mentioned in the previous section, the year 2007 saw a declining trend in civil liberties as well as transparency and accountability in governance, with a rise in corruption scandals among high level state officials.<sup>200</sup> As a consequence, public frustration "rocketed" during the year,<sup>201</sup> and momentum for the opposition developed, which eventually led to the ruling coalition's failure to gain a two-third majority in the parliament in the 2008 general

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<sup>199</sup> Brown (n 145) 429.

<sup>200</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>201</sup> *ibid.*

elections for the very first time since it came to power in 1957.<sup>202</sup> The 2008 setback also led Abdullah to step down as the leader of the ruling party and prime minister, to be succeeded by Najib Razak in 2009.<sup>203</sup> Three major opposition parties formed a coalition, Pakatan Rakyat (People's Alliance, or PR in short) after the elections. The opposition parties had never been in control of more than two state governments before, and yet after these elections, they got hold of five state governments.<sup>204</sup>

It must be noted that the first Bersih rally, which was Bersih 2's precedent, happened in November 2007. Before its relaunch as a non-partisan entity, Bersih was an alliance of opposition parties and other civil society groups. This largest series of anti-government protests in nearly a decade with over 40,000 participants,<sup>205</sup> despite violent suppression by the police, was likely to have contributed to the momentum both for the opposition and for Bersih 2 and the successive rallies which were part of Bersih 2.0.

### *3.1.1.2 The public's experience of social movements*

The public's experience of social movements in general is actually a consequence and a reflection of domestic civil society space in a particular country, which in turn is shaped by institutionalized political systems, to a large extent. That said, it is worth emphasizing that there can be interrelations among domestic external factors which might have influences on the development and outcomes of a movement.

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<sup>202</sup> Chin-Huat Wong, James Chin and Norani Othman, 'Malaysia – towards a Topology of an Electoral One-Party State' (2010) 17 *Democratization* 920; Joseph Chinyong Liow and Afif Pasuni, 'Debating the Conduct and Nature of Malaysian Politics: Communalism and New Media Post-March 2008' (2010) 29 *Journal of Current Southeast Asian Affairs* 39.

<sup>203</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2009' (n 129).

<sup>204</sup> Wong, Chin and Othman (n 202); Liow and Pasuni (n 202).

<sup>205</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

For the purpose of this study, the public's experience of social movements and views on democracy might have significant implications for the two movements in question regarding mobilization and the gathering of public support.

## **Viet Nam**

From the discussion above on the country's institutionalized political system and socio-political environment, one might have a pessimistic view about the prospect for the Self-Nomination movement. However, a humble yet positive change in the socio-political life of the country is that more Vietnamese people are becoming interested in politics and expressing their opinions, as observed by London.<sup>206</sup> This tendency has been manifesting as what London called "an incipient and unmediated public discourse about politics and society" that exists on the Internet, communities and workplaces throughout the country.<sup>207</sup>

Talking about the public's experience of social movements in Viet Nam, it should be reiterated that civil liberties, in particular freedom of association and assembly and freedom of express, have been limited in general, despite some signs of improvement in the recent years. Almost a decade ago, Sidel highlighted that there was no legislation on association in the country;<sup>208</sup> neither is there any at the moment, nor is there any legislation on assembly. The passing of these laws has been delayed repeated for more than a decade. However, the bills still showed signs of control and limitations.<sup>209</sup> Meanwhile, assemblies are required to have official permission, and several peaceful assemblies, some having political agenda, others targeting other causes such as environment protection, were met with various forms of

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<sup>206</sup> Jonathan D London, 'Toward a New Politics?' in Jonathan D London, *Politics in Contemporary Vietnam: Party, State, and Authority Relations* (Palgrave Macmillan 2014).

<sup>207</sup> *ibid* 189.

<sup>208</sup> Sidel (n 94).

<sup>209</sup> *ibid*.

suppression by the government and thugs with alleged links to the government, such as violent crackdowns, harassment, and even criminalization.<sup>210</sup>

Given this highly limited space for civil liberties, it is not surprising that the Vietnamese population in general have not had much exposure to or experience of social movements in general. However, Kerkvliet pointed out that since the mid 1990s, public criticism of the Communist Party government has expanded into a wider democratisation movement, though more often in the form of posting essays, public letters and petitions on social media and pro-democracy online magazines.<sup>211</sup> In addition, social movements in Viet Nam are becoming more and more diverse in causes, and have slowly been receiving participation of more groups in the society.

### **Malaysia**

Before the first Bersih rally in 2007, Malaysians' experience of social movements was more in the realm of NGOs than mass civil participation, though at some points a few mass movements took place mostly for political causes.

The history of human rights movements in the country dated back to the early 1970s, and in the recent two decades such movements have gained more prominence with the joint forces of calls for democratization.<sup>212</sup> The movements were mostly organized by a more or less stable core group of NGOs and activists, with the participation of the wider public at some points. According to Weiss's observation, similar methods and strategies were used in these

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<sup>210</sup> Freedom House, 'Vietnam (Country Report) - Freedom in the World 2016' (n 89).

<sup>211</sup> Benedict J Tria Kerkvliet, 'Vietnam's Democratisation Movement' <<http://www.eastasiaforum.org/2015/05/01/vietnams-democratisation-movement/>> accessed 16 July 2017.

<sup>212</sup> Meredith L Weiss, 'The Malaysian Human Rights Movement' in Meredith L Weiss and Saliha Hassan, *Social Movements in Malaysia: From Moral Communities to NGOs* (RoutledgeCurzon 2012).

movements, in particular petitioning, the use of the Internet during the last two decades as a mobilization tool, monitoring and fact-finding, publications, and public forums.<sup>213</sup> However, there were big obstacles that hindered NGOs' publications and forums from reaching the public. In general, these forums and publications were mostly read only by the activists who belong to the same circle of NGOs.<sup>214</sup> Advocacy-related public events organized by NGOs were rarely covered by mainstream local media, and when they were, the coverage was usually negative.<sup>215</sup> Compared to the other methods, mass public demonstrations were relatively rare because this method was considered of higher risk.<sup>216</sup> While the NGOs involved were able to frame their goals in human rights discourse and form coalitions to deal with the targeted issues, such coalitions usually ended up in "a small core group of individuals doing all the work."<sup>217</sup> Indeed, these coalitions were mostly "ad hoc and short-term," and lacked a long-term vision and strategisation.<sup>218</sup> Regarding internal structure, many human rights NGOs in Malaysia had limited resources, and were sometimes centred around some key individuals rather than being fully "grassroots-oriented."<sup>219</sup> As Weiss observed, human rights movements in Malaysia often ended up achieving "the opposite" of what their organizers had aimed for after periods of intensified activism, with controversial laws even being amended to be more draconian, the imminent effect of which would be limiting future campaigns.<sup>220</sup>

Most prominent movements during the past two decades before Bersih 2 included *Reformasi*, anti-Internal Security Act (anti-ASA), and Bersih 2's precedent, Bersih rally in 2007.

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<sup>213</sup> *ibid.*

<sup>214</sup> *ibid.*

<sup>215</sup> *ibid.*

<sup>216</sup> *ibid.*

<sup>217</sup> *ibid* 162.

<sup>218</sup> *ibid.*

<sup>219</sup> *ibid* 142.

<sup>220</sup> *ibid* 161.

*Reformasi* (meaning “reformation” in English) took place between 1998 and 1999. In September 1998, Anwar Ibrahim, the then deputy prime minister, was arrested under the ISA and later faced charges of corruption and sodomy, an incident widely seen as highly “politically motivated.”<sup>221</sup> Following the events, exploding online support for Anwar led to the “first organised large-scale protest movement,” known as *Reformasi*.<sup>222</sup> The Internet, in particular websites, forums and listservs, played an important role as the communication and mobilization platform among protesters.<sup>223</sup> However, there was no exception to *Reformasi*’s activists when it comes to the government’s reactions to critical voices: about 500 activists were detained during street protests on the grounds of “illegal assembly” or “rioting.”<sup>224</sup>

The campaign that followed the detention of Anwar without trial continued for years later, and the anti-ISA call itself became mainstreamed.<sup>225</sup> The anti-ISA movement not only targeted the use of ISA against Anwar but also his supporters.<sup>226</sup> The anti-ISA campaign had started before Bersih 2 took place and persisted until 2012, when the law was repealed and replaced by Security Offences (Special Measures) Act, which was criticized as no less, if not more, repressive than the ISA.

Bersih was first formed in 2005 as a coalition of opposition political parties and NGO with the goal of “push[ing] for a thorough reform of the electoral process in Malaysia,” and was officially launched in 2006.<sup>227</sup> The first Bersih rally took place in November 2007, with over

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<sup>221</sup> John Postill, ‘A Critical History of Internet Activism and Social Protest in Malaysia, 1998-2011’ (2014) 1 *Asiascape: Digital Asia Journal* 78, 83.

<sup>222</sup> Sheila Nair, ‘The Limits of Protest and Prospects for Political Reform in Malaysia’ (2007) 39 *Critical Asian Studies* 339, 339; Postill (n 221) 83.

<sup>223</sup> Postill (n 221).

<sup>224</sup> Weiss (n 212) 152.

<sup>225</sup> Weiss (n 212).

<sup>226</sup> *ibid.*

<sup>227</sup> Bersih 2.0, ‘Background’ (n 83).

40,000 people attending despite a police ban.<sup>228</sup> The rally became the largest anti-government protests in almost a decade.<sup>229</sup> The police responded with tear gas and water cannons, and arrests of leaders.<sup>230</sup> Despite repressive responses from the government, a remarkable achievement of the first Bersih rally was that it brought Malaysians of different ethnic backgrounds together to act for a common cause.<sup>231</sup> This set an important trans-ethnic solidarity foundation for the following Bersih rallies.

The limited success of social movements in Malaysia can be explained to a large extent by the relatively restricted space for civil liberties in the country and the government's "wary" attitude towards political NGOs,<sup>232</sup> an issue that has been discussed in detail in a previous section.

### **3.1.2 Global factors**

#### *3.1.2.1 The development and accessibility of the Internet, new technology and social media*

In the context of a highly globalized world, the role of external factors which are beyond a country's border must be taken into consideration in studying social movements. A fundamental factor to be considered is the ubiquity of the Internet in general and social media in particular, and the development of new technology. Social movements scholars have highlighted the role of social media as a tool for mobilization, connection and communication within the movements, among organizers, participants and supporters.<sup>233</sup> Notably, Juris

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<sup>228</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2008' (n 129).

<sup>229</sup> *ibid.*

<sup>230</sup> *ibid.*

<sup>231</sup> Postill (n 221).

<sup>232</sup> Weiss and Hassan (n 189) 11.

<sup>233</sup> Paolo Gerbaudo, *Tweets and the Streets : Social Media and Contemporary Activism* (London : Pluto Press, 2012 2012) <<http://it.ceu.hu/vpn>>; Alice Mattoni, 'Beyond Celebration: Toward a More Nuanced Assessment of Facebook's Role in Occupy Wall Street' (*Hot Spots, Cultural Anthropology*, 14 February 2013)

emphasized the power of social media in assembling “masses of individuals from diverse backgrounds” into movements’ physical spaces.<sup>234</sup> Garrett argued that new Information and Communication Technologies (ICTs) help reduce participation costs, create a communities, and promote collective identities across geographical spaces.<sup>235</sup> Ayres suggested that the Internet enabled the diffusion of protest ideas and tactics on a transnational scale.<sup>236</sup> Earl and Kimport raised the point that the Internet allowed activists to act together without having to be physically together.<sup>237</sup> On the other hand, the risks of censorship can be maintained and manifest in new forms,<sup>238</sup> and new unique forms of violations of individuals’ rights have arisen, as documented in Freedom House’s “Freedom on the Net” annual reports.<sup>239</sup>

The two movements in question were more or less situated in this global common trend. At the same time, it is worth looking into the specific contemporary conditions in the two countries regarding the accessibility and availability of the Internet and ICTs, in particular around the specific period when the movements happened, considering the global trend of the use of such tools in social movements.

## **Viet Nam**

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<<https://culanth.org/fieldsights/84-beyond-celebration-toward-a-more-nuanced-assessment-of-facebook-s-role-in-occupy-wall-street>> accessed 26 March 2017.

<sup>234</sup> Jeffrey S Juris, ‘Reflections on #Occupy Everywhere: Social Media, Public Space, and Emerging Logics of Aggregation’ (2012) 39 *American Ethnologist* 259, 266.

<sup>235</sup> R Kelly Garrett, ‘Protest in an Information Society: A Review of Literature on Social Movements and New ICTs’ (2006) 9 *Information, Communication & Society* 202.

<sup>236</sup> Jeffrey M Ayres, ‘From the Streets to the Internet: The Cyber-Diffusion of Contention’ (1999) 566 *The ANNALS of the American Academy of Political and Social Science* 132.

<sup>237</sup> Earl and Kimport (n 71).

<sup>238</sup> W Lance Bennett, ‘Communicating Global Activism: Strengths and Vulnerabilities of Networked Politics’ (2003) 6 *Information, Communication & Society* 143; Kelly Garrett (n 235).

<sup>239</sup> Freedom House, ‘“Freedom on the Net” Methodology’ (2016) <<https://freedomhouse.org/report/freedom-net-methodology>> accessed 1 April 2017.

As mentioned in a previous section, mainstream or traditional media in the country were heavily restricted. Introduced in the country only in 1997,<sup>240</sup> the Internet has naturally become an important alternative channel to access and disseminate information. As of 2016, while Internet access is rather common in cities nowadays, it can be intermittent in rural areas.<sup>241</sup> The quality of access is improving yet is still relatively poor by global standards.<sup>242</sup> Most players in the telecommunication market are state-owned; therefore the market lacks free and fair competition, and autonomy.<sup>243</sup>

## Malaysia

Compared to Viet Nam as well as many other countries in the region, Internet access in Malaysia as of 2011, when Bersih 2 took place, was relatively good. During the 2000-2010 decade, Internet penetration had exploded in the country, growing from 3.7 million to 16.1 million users.<sup>244</sup> Just like in Viet Nam, there existed an urban-rural gap in Malaysia in terms of Internet access, with more than 80 percent of users residing in urban areas.<sup>245</sup>

As of 2010, mobile phone use was also ubiquitous in Malaysia, with 33.1 million subscribers, which exceeded the country's population and therefore meant that some people owned more than one phone lines.<sup>246</sup> By the end of 2010, there were 8.6 million 3G mobile service subscribers.<sup>247</sup>

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<sup>240</sup> Hayton (n 104).

<sup>241</sup> Freedom House, 'Vietnam (Country Report) - Freedom on the Net 2016' (2016) <<https://freedomhouse.org/report/freedom-net/2016/vietnam>> accessed 1 April 2017.

<sup>242</sup> *ibid.*

<sup>243</sup> *ibid.*

<sup>244</sup> Freedom House, 'Malaysia (Country Report) - Freedom on the Net 2011' (2011) <<https://freedomhouse.org/report/freedom-net/2011/malaysia>> accessed 1 April 2017.

<sup>245</sup> *ibid.*

<sup>246</sup> *ibid.*

<sup>247</sup> *ibid.*

As many parts of the country still lacked high-quality infrastructure, the government responded by prioritizing the development of broadband Internet infrastructure.<sup>248</sup> In fact, earlier, Mahathir's government expressed the ambition of reaching the western standard in terms of information technology development by the year 2020 in its 2020 Vision.<sup>249</sup> As a result, Internet penetration in households reached 31.7 percent by the end of 2009.<sup>250</sup> The government continued its efforts in 2010 by launching several programs and initiatives to improve the expansion of broadband Internet and mobile phone coverage in the country.<sup>251</sup> A probably unexpected effect of all these development policies by the authoritarian government was the increase of political activism, in particular in gathering support for opposition political leaders like Anwar, exposing corruption cases, and critiquing repressive practices of the government.<sup>252</sup>

### *3.1.2.2 Universal regime: international and regional human rights systems*

With key political and civil rights on their agenda, the two movements took place in a world where existed cross-border human rights systems. Therefore, it is worth examining the specific contexts regarding international and regional human rights systems which were relevant to the two movements in question.

#### *Relatively similar conditions: international and regional human rights protection instruments*

So far, there exists no pan-Asian intergovernmental human rights protection arrangements in formal forms such as treaties, organizations or courts. This is a relative disadvantage for

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<sup>248</sup> Freedom House, "'Freedom on the Net' Methodology' (n 239).

<sup>249</sup> Peter Ferdinand, 'The Internet, Democracy and Democratization' (2000) 7 *Democratization* 1; Kim (n 169).

<sup>250</sup> Freedom House, 'Malaysia (Country Report) - Freedom on the Net 2011' (n 244).

<sup>251</sup> *ibid.*

<sup>252</sup> Abbott (n 170); Ferdinand (n 249); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2009' (n 129); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2011' (n 129); Kim (n 169); Lars Willnat and others, 'Online Media and Political Participation: The Case of Malaysia' (2013) 16 *Mass Communication and Society* 557.

human rights movements that took place in Asia, compared to their counterparts in other regions where such arrangements have been established, such as Europe, Africa and the Americas.<sup>253</sup>

Located in the Southeast Asian region, Malaysia and Viet Nam are member states of the Association of Southeast Asian Nations, more commonly known under its acronym ASEAN, an organization that aims to promote intergovernmental cooperation in terms of economic growth, socio-cultural development and regional stability.<sup>254</sup> In 2009, ASEAN established its own human rights body, the ASEAN Intergovernmental Commission on Human Rights (AICHR). As “the first regional human rights mechanism in the Asia-Pacific region,” its launch was expected to bring positive changes to the implementation of international human rights standards in the region.<sup>255</sup> According to AICHR’s Terms of Reference, it is a “consultative inter-governmental body” and an “integral part of the ASEAN organisational structure,”<sup>256</sup> whose mandate includes, among others, developing strategies for the promotion and protection of human rights, enhancing public awareness of human rights, promoting capacity building for effective implementation of international human rights treaties among member states, and “obtain[ing] information” from member states on the promotion and protection of human rights.<sup>257</sup> Another important mandate of AICHR was developing an ASEAN Human Rights Declaration, a framework for “human rights cooperation” in the

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<sup>253</sup> Office of the High Commissioner for Human Rights (OHCHR), ‘Regional Human Rights Systems in Other Parts of the World’ (*OHCHR Regional Office for South-East Asia*, 2017) <<http://bangkok.ohchr.org/programme/other-regional-systems.aspx>> accessed 7 April 2017.

<sup>254</sup> Association of Southeast Asian Nations (ASEAN), ‘About ASEAN’ (*Association of Southeast Asian Nations (ASEAN)*, 2017) <<http://asean.org/asean/about-asean/>> accessed 8 April 2017.

<sup>255</sup> Homayoun Alizadeh, ‘ASEAN and Human Rights: Closing the Implementation Gap’ (*OHCHR Regional Office for South-East Asia*, 22 October 2009) <<http://bangkok.ohchr.org/programme/asean/asean-human-rights-closing-implementation-gap.aspx>> accessed 8 April 2017.

<sup>256</sup> ASEAN Secretariat, ‘Terms of Reference of ASEAN Intergovernmental Commission on Human Rights’ Section 3.

<sup>257</sup> *ibid* Section 4.

region.<sup>258</sup> Passed in 2012 by ASEAN leaders as the first of its kind in the Asia-Pacific region, the document however was received with dismay by human rights civil society groups within as well as outside the region. While the document recognized some important civil and political rights such as freedom of expression and freedom of peaceful assembly,<sup>259</sup> it was criticized as “a declaration of government powers disguised as a declaration of human rights,” containing provisions that would “undermine, rather than [affirm],” international human rights standards.<sup>260</sup> Major flaws which were under criticism included the principle that the enjoyment of human rights must be “balanced with the performance of corresponding duties,”<sup>261</sup> the emphasis that the realisation of human rights must be subject to regional and national contexts,<sup>262</sup> and its failure to recognize fundamental civil and political rights such as the right to freedom of association, and the right to be free from enforced disappearance.<sup>263</sup> Notably, regarding the right to vote and to participate in the government of one’s country, the relevant provisions contain the phrase “in accordance with national law,”<sup>264</sup> which was criticized as implying that the realization of these rights must be subject to national laws, rather than requiring that the laws comply with international standards.<sup>265</sup>

On the international level, OHCHR, a key component of the UN human rights system, has a regional office for South-East Asia in Bangkok. The office addresses specific human rights

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<sup>258</sup> *ibid* Section 4.

<sup>259</sup> Association of Southeast Asian Nations (ASEAN), ‘ASEAN Human Rights Declaration’ para. 23 & 24.

<sup>260</sup> Human Rights Watch, ‘Civil Society Denounces Adoption of Flawed ASEAN Human Rights Declaration’ (*Human Rights Watch*, 19 November 2012) <<https://www.hrw.org/news/2012/11/19/civil-society-denounces-adoption-flawed-asean-human-rights-declaration>> accessed 8 April 2017.

<sup>261</sup> Association of Southeast Asian Nations (ASEAN) (n 259) para. 6.

<sup>262</sup> *ibid* para. 7.

<sup>263</sup> Human Rights Watch (n 260).

<sup>264</sup> Association of Southeast Asian Nations (ASEAN) (n 259) art. 25.

<sup>265</sup> Human Rights Watch (n 260).

issues in the region, engage national actors, work with and support regional organizations, and provide support for UN Country Teams.<sup>266</sup>

Prominent international human rights NGOs that focus on civil and political rights or include this area in their work had limited physical presence in the region. Notably, Amnesty International had a national office in Malaysia. The national office addresses specific human rights issues in the country, and at the same time brings Amnesty International's global campaigns to the local level. In Viet Nam, however, there was no local branch of Amnesty International or any other international civil and political rights NGOs.

Pressure from foreign governments is in general a common channel to advocate for human rights issues. In the two countries in question, there existed diplomatic presence in the forms of diplomatic delegations, embassies or consulates of several foreign national governments and intergovernmental bodies which were known to be vocal in promoting for the improvement of human rights situations abroad, such as the EU, US and Scandinavian countries.

*Differences: relationship with international human rights instruments*

### **Viet Nam**

Ruled by an authoritarian regime who took a restrictive approach to political freedoms and civil liberties, Viet Nam has always been seen as a black spot in the region in the eyes of the international human rights advocate community. Therefore, in general, it received a higher

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<sup>266</sup> Office of the High Commissioner for Human Rights (OHCHR), 'OHCHR in the South-East Asia Region' (*OHCHR Regional Office Bangkok*) <<http://bangkok.ohchr.org/programme/ohchr-sear.aspx>> accessed 8 April 2017.

level of attention and monitoring of human rights situations in. This can be seen as a favourable condition for human rights movements in Viet Nam.

Regarding the status of ratification of international human rights treaties, Viet Nam has ratified the following key treaties which were more or less relevant to the cause of the Self-Nomination movement: Universal Declaration of Human Rights (UDHR) (by dint of the country's membership in the UN); International Covenant on Civil and Political Rights (CCPR) (ratified in 1998); International Covenant on Economic, Social and Cultural Rights (CESCR) (ratified in 1982); and Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) (ratified in 2015).<sup>267</sup>

## **Malaysia**

Malaysia appeared to be less welcoming to international human rights treaties on formal grounds, i.e. in terms of ratification. Except for UDHR, which did not require ratification but was supposed to be accepted by the Malaysian government by dint of the country's membership in the UN, key human rights treaties such as CCPR, CAT and CESCR have not been ratified by Malaysia as of 2016.<sup>268</sup> This was a considerable disadvantage for Bersih 2 activists considering the cause they were calling for.

### *Relevant international human rights frameworks*

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<sup>267</sup> Office of the High Commissioner for Human Rights (OHCHR), 'Status of Ratifications - Human Rights Bodies: Viet Nam' (2017) <[http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=192&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=192&Lang=EN)> accessed 14 April 2017.

<sup>268</sup> Office of the High Commissioner for Human Rights (OHCHR), 'Status of Ratifications - Human Rights Bodies: Malaysia' (2017) <[http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=105&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=105&Lang=EN)> accessed 14 April 2017; Weiss (n 212).

Of the key international human rights treaties that were ratified by one or more of the two countries in question, UDHR and CCPR contained the most important and relevant frameworks which concern the right to vote and to be elected, the right to freedom of peaceful assembly and association, and the right to freedom of expression.

### **Frameworks concerning the right to vote and to be elected**

Article 21 of the UDHR guarantees the right to take part in the government of one's country, and the democratic nature of the electoral process.<sup>269</sup> The right is also enshrined in Article 25 of the CCPR, which guarantees the right to participate in public affairs and the right to vote and to be elected.<sup>270</sup> General Comment No. 25 by the Human Rights Committee interprets Article 25 of the CCPR as including the right to participate in the conduct of public affairs of every citizen as voters or as candidates for election, and requiring states to take effective measures to ensure the democratic nature of electoral processes.<sup>271</sup> The General Comment also affirms that freedom of expression, association and assembly are “essential conditions” for the “effective exercise” of voting rights.<sup>272</sup>

### **Frameworks concerning the right to freedom of peaceful assembly and association**

Although the movements in question did not focus on this right, it is relevant in the context of this research as one movement used demonstration as a key tactic, and relevant international human rights standards provide a lens through which the governments' response to protests and associations can be scrutinized. The right to freedom of peaceful assembly and

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<sup>269</sup> UN General Assembly, 'The Universal Declaration of Human Rights' art. 21.

<sup>270</sup> UN General Assembly, 'International Covenant on Civil and Political Rights' art. 25.

<sup>271</sup> UN Human Rights Committee, 'General Comment No. 25: Article 25 (Participation in Public Affairs and the Right to Vote) (CCPR/C/21/Rev.1/Add.7)'.

<sup>272</sup> *ibid* para. 12.

association is enshrined in Article 20 of the UDHR<sup>273</sup> and Articles 21 and 22 of the CCPR.<sup>274</sup> These rights are non-derogable in that no restrictions may be applied other than those which are prescribed by law and which are “necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”<sup>275</sup>

### **Frameworks concerning the right to freedom of expression**

As affirmed in the General Comment No. 25, similar to the right to freedom of peaceful assembly and association, the right to freedom of expression is closely related to voting rights.<sup>276</sup> The right is guaranteed under Article 19 of the UDHR<sup>277</sup> and Article 19 of the CCPR.<sup>278</sup> The right is interpreted in detail in General Comment No. 34 by the Human Rights Committee.<sup>279</sup> Freedom of expression is also a non-derogable right which may be subject to certain restrictions but these must be “provided by law” and “are necessary” “(a) [f]or respect of the rights or reputations of others;” or “(b) [f]or the protection of national security or of public order (ordre public), or of public health or morals.”<sup>280</sup>

#### *3.1.2.3 Shrinking space for civil society*

The two movements in question happened during a period in which Carothers and Brechenmacher observed a trend that they called “closing space” for democracy and human rights support.<sup>281</sup> In 2006, Carothers noted a global trend that was happening across

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<sup>273</sup> UN General Assembly (n 269) art. 20.

<sup>274</sup> UN General Assembly (n 270) art. 21 & 22.

<sup>275</sup> *ibid* art. 21 & art. 22 para. 2.

<sup>276</sup> UN Human Rights Committee (n 271) para. 8 & 12.

<sup>277</sup> UN General Assembly (n 269) art. 19.

<sup>278</sup> UN General Assembly (n 270) art. 19.

<sup>279</sup> Human Rights Committee, ‘General Comment No 34: Article 19 (Freedoms of Opinion and Expression) (CCPR/C/GC/34)’.

<sup>280</sup> UN General Assembly (n 270) art. 19 para. 3.

<sup>281</sup> Carothers and Brechenmacher (n 2).

continents – in Asia, Africa, former Soviet Union, Latin America, and the Middle East.<sup>282</sup> After a two-decade flourish of democracy-building programs around the world, government crack-down on NGO activities was increasing.<sup>283</sup> Democracy assistance from the West was denounced by country leaders as “illegitimate political meddling”<sup>284</sup> or blamed for “fomenting upheavals.”<sup>285</sup> In some cases, such governments even got the public to buy into the rhetoric that their opposition to western democracy promotion was “resistance not to democracy but to American interventionism.”<sup>286</sup> Alarming, the backlash was sustained as its proponents were “learning from and feeding off of one another.”<sup>287</sup> A decade later, it was noticed that the trend showed no sign of subsiding but was even expanding across “all ideological, economic, and cultural lines,” happening even in Europe and more countries in the regions where the trend was first observed;<sup>288</sup> and not just some specific but a wide range of democracy programs and groups were under attack.<sup>289</sup>

Repression manifested in various forms around the world. Most common forms included imposing excessive taxes, restrictions or prohibitions on foreign funding, creating “burdensome”<sup>290</sup> registration, approval and reporting systems regarding foreign funding, vilifying publicly and harassing foreign-funded domestic NGOs and international aid groups, or even expelling funders and their beneficiaries.<sup>291</sup> Indeed, Malaysia was explicitly cited in Carothers and Brechenmacher’s 2014 report as a typical example for the vilification,

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<sup>282</sup> Thomas Carothers, ‘The Backlash against Democracy Promotion’ (2006) 85 *Foreign Affairs* 55.

<sup>283</sup> *ibid.*

<sup>284</sup> *ibid* 55.

<sup>285</sup> *ibid* 56.

<sup>286</sup> *ibid.*

<sup>287</sup> *ibid* 55.

<sup>288</sup> Thomas Carothers, *The Closing Space Challenge: How Are Funders Responding?* (Carnegie Endowment for International Peace 2015) 1.

<sup>289</sup> Carothers and Brechenmacher (n 2).

<sup>290</sup> *ibid* 10.

<sup>291</sup> Carothers (n 282); Carothers and Brechenmacher (n 2).

harassment and expulsion of foreign-funded NGOs.<sup>292</sup> The worrying rise of legislations which are aimed to restrict activities of human rights defenders and their organizations as well as more direct forms of harassment and intimidation was also highlighted by former UN Secretary-General Ban Ki-moon.<sup>293</sup>

To explain this worrisome global trend, Carothers argued that newly democratizing countries which used to open its door to democracy programs now evolved into “semi-authoritarian” states.<sup>294</sup> The leaders of such regimes allowed some level of political freedom barely more than what was enough to earn themselves legitimacy as “reformers,” yet at the same time maintained restrictions which must be strong enough to ensure that their rule could not be threatened.<sup>295</sup>

This global trend was a highly unfavourable condition for the two movements in question, especially given that it was observed to be sustained in a “copycat” pattern around the world.<sup>296</sup>

### **3.2 Internal factors and development**

In this section, I am going to present findings regarding internal factors which contributed to shaping the development and outcomes of the movements. The following key factors were examined based on the theoretical framework by McAdam, McCarthy and Zald:<sup>297</sup>

- **Framing processes**, which involve the setting of goals and activists’ discourses;

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<sup>292</sup> Carothers and Brechenmacher (n 2).

<sup>293</sup> United Nations (n 22).

<sup>294</sup> Carothers (n 282) 60.

<sup>295</sup> Carothers (n 288) 60.

<sup>296</sup> Carothers and Brechenmacher (n 2) x.

<sup>297</sup> McAdam, McCarthy and Zald (n 3).

- **Mobilization strategies and structures**, which involve the following aspects:
  - **Organizational structure**, which means the “organizational profile of those groups purporting to represent the movement.”<sup>298</sup> It is important that the movements have an enduring organizational structure so that collective action is sustained;
  - **Resources**, which include, among others financial resources, and domestic and international networks;
  - **Public participation and support**, which concern quantity and quality of response from the wider public to the call of organizers or pioneering activists, by joining as participants and / or supporters;
  - **Strategies, tactics and actions** that activists adopted to achieve the goals set.

### 3.2.1 Framing processes

#### 3.2.1.1 Goal setting

Between the two, Bersih 2 had more specific and clearly stated goals than Self-Nomination, to a large extent because it had a formalized core group of organizers. The goals set by Self-Nomination activists were quite diverse and much less structured.

#### Self-Nomination

The goals of the Self-Nomination movement, as explicitly stated by activists through social media channels, varied among different initiatives and individuals. The following three goals were mostly common observed from the data.

*Goal 1: To raise awareness among the Vietnamese population on political participation*

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<sup>298</sup> *ibid* 13.

Most self-nominated candidates emphasized this goal as they announced their candidacy, and this goal was echoed by their allies, most importantly activists who did not participate as candidates and media allies. Typical examples can be seen in the following quotes by activists.

I see that, for so many years our people have been so used to the “nomination by the [communist] party, voting by the people” system; through this election, I would like our people to change that perception. If [the government] says that the people are the leaders [of the country], it must let the people vote for those whom they trust, or nominate themselves.<sup>299</sup>

(Dang Bich Phuong, 56 years old, quote translated from a Vietnamese language interview article on *baucuquochoi.blogspot.com*)

... The more self-nominated candidates there are in a country, the more blessed it is because it is a sign that its people care about their country. Self-nomination is a citizen right of everyone, the right to participate in the making of decisions concerning the future of the country rather than letting those who we do not know decide for us...<sup>300</sup>

(Do Nguyen Mai Khoi, 33 years old, quote translated from the Vietnamese language description of a Facebook event which she created and hosted with

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<sup>299</sup> Văn Minh Lưu, ‘Ứng Viên Đặng Bích Phương: “Sẽ Kiến Nghị Khởi Kiến Trung Quốc Nếu Là ĐBQH” [Candidate Đặng Bích Phương: “Will Propose a Lawsuit against China If Becoming a Parliamentarian”]’ <<http://baucuquochoi.blogspot.com/2016/03/ung-vien-ang-bich-phuongse-kien-nghi.html>> accessed 23 April 2017.

<sup>300</sup> Do Nguyen Mai Khoi, Hoàng Dũng and Ngọc Diệp, ‘1 Triệu Dân Tự Ứng Cử ĐBQH 2021 [1 Million Citizens Nominating Ourselves for the 2021 Legislative Elections] (Facebook Event)’ (*Facebook*) <<https://www.facebook.com/events/1138547726198087/>> accessed 25 April 2017.

two other Facebook users to call for a mass self-nomination movement in the future)

*Goal 2: To raise awareness among the Vietnamese population and international community on the “dark sides” of the electoral system*

Another important goal stated by many self-nominated candidates as they decided to run for the elections was to expose corrupt practices and undemocratic rules of the electoral process in the country. Nguyen Quang A, the first independent candidate who announced his candidacy, answered as follows about his candidacy in his interview with Tia Sáng Việt Nam, which means ‘Viet Nam Beam of Light’ in English, an English-language civil society initiative aimed to support “online safety and Internet freedom” in Viet Nam.<sup>301</sup>

We shall accomplish our goal, because the utmost objective is to continue the democratic learning process... We will use the social media during this election, even if they eliminate me from the list, to urge the people to monitor the election, to discover and report any fraud, to ensure ballot counting in conformity with the existing regulations – that is still part of the democratic learning process we have to continue.<sup>302</sup>

(Nguyen Quang A, 60 years old, original quote in English from an interview with Tia Sáng Việt Nam)

*Goal 3: To have a chance to participate actively in public affairs*

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<sup>301</sup> Tia Sáng Việt Nam, ‘Tia Sáng Việt Nam [Viet Nam Beam of Light]’ (*Tia Sáng Việt Nam [Viet Nam Beam of Light]*) <<https://www.tiasangvietnam.org>> accessed 17 October 2016.

<sup>302</sup> Tia Sáng Việt Nam, ‘Quang A on the “democratic Learning Process”’ (*Tia Sáng Việt Nam [Viet Nam Beam of Light]*) <<https://www.tiasangvietnam.org/quang-a-on-the-democratic-learning-process/>> accessed 17 October 2016.

In running for the elections, many independent candidates hoped to have an opportunity to participate actively in public affairs, despite the fact that the chance to be elected was extremely slim for self-nominated candidates. Typical examples can be found in the following quotes of Do Nguyen Mai Khoi and Lam Ngan Mai, both young singers by profession.

I shall now nominate myself to the post of a parliamentarian with a desire to represent the voices of the Vietnamese people to expose injustices beyond Facebook, YouTube or [other] media channels, but in the most powerful place in Viet Nam.

(Lam Ngan Mai, 32 years old, quote translated from a Vietnamese language interview article on *baucuquochoi.blogspot.com*<sup>303</sup>)

When there are a million people nominating themselves [for the Legislative Elections], we definitely will have more representatives in the National Assembly, as the Fatherland Front cannot eliminate one million independent candidates. That day, we will have more opportunities to contribute to and develop our country, to have the right to monitor [the government]...<sup>304</sup>

(Do Nguyen Mai Khoi, 33 years old, quote translated from the Vietnamese language description of a Facebook event which she created and hosted with two other Facebook users to call for a mass self-nomination movement in the future)

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<sup>303</sup> Văn Minh Lưu, 'Lâm Ngân Mai: Ủng Hộ Các Ứng Viên Độc Lập Ra Ứng Cử [Lâm Ngân Mai: Supporting Independent Candidates]' <<http://baucuquochoi.blogspot.com/2016/03/lam-ngan-mai-ung-ho-cac-ung-vien-oc-lap.html>> accessed 25 April 2017.

<sup>304</sup> Do Nguyen Mai Khoi, Hoàng Dũng and Ngọc Diệp (n 300).

In summary, the goals set by Vietnamese activists were mostly generic in nature and broad in scope, rather than targeting a specific, narrowed-down area or issue regarding the country's electoral system.

## Bersih 2

Bersih 2 was the first rally launched by Bersih 2.0. Bersih 2.0 organizers set the aim of the overall movement as “campaigning for free and fair elections.”<sup>305</sup> They elaborated on this aim in their mission statement: “to advocate for a credible and inclusive electoral process so that all eligible Malaysians may freely choose their elected representatives and governments in clean and fair elections and benefit from healthy party competition at all levels of government: federal, state and local.”<sup>306</sup> This general goal was specified through the “eight demands” as the movement was relaunched as a non-partisan entity:

**1. Clean the electoral roll:** This demand aims to eliminate “irregularities such as deceased persons and multiple persons registered under a single address or non-existent addresses;”<sup>307</sup>

**2. Reform postal ballot:** “Postal ballot should not only be open for all Malaysian citizens living abroad, but also for those within the country who cannot be physically present in their voting constituency on polling day. Police, military and civil servants too must vote normally like other voters if not on duty on polling day. The postal

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<sup>305</sup> Bersih 2.0, ‘Background’ (n 83).

<sup>306</sup> Bersih 2.0, ‘Support BERSIH 2.0 for Clean and Fair Elections’ (23 September 2010) <<https://www.bersih.org/support-bersih-2-0-for-clean-and-fair-elections/>> accessed 29 July 2017.

<sup>307</sup> Bersih 2.0, ‘Our 8 Demands’ (*Bersih 2.0*, 2016) <<https://www.bersih.org/about/8demands/>> accessed 29 July 2017.

ballot system must be transparent. Party agents should be allowed to monitor the entire process of postal voting;”<sup>308</sup>

**3. Use of indelible ink:** The demand was aimed to to “prevent voter fraud;”<sup>309</sup>

**4. Minimum 21 days campaign period:** This demand was aimed to “allow voters more time to gather information and deliberate on their choices. It will also allow candidates more time to disseminate information to rural areas;”<sup>310</sup>

**5. Free and fair access to media:** Bersih 2 demanded that the EC must “press for all media agencies, especially state-funded media agencies... to allocate proportionate and objective coverage for all political parties;”<sup>311</sup>

**6. Strengthen public institutions:** Bersih 2 demanded that “[p]ublic institutions such as the Judiciary, Attorney-General, Malaysian Anti-Corruption Agency (MACC), Police and the EC must be reformed to act independently, uphold laws and protect human rights. In particular, the EC must perform its constitutional duty to act independently and impartially so as to enjoy public confidence;”<sup>312</sup>

**7. Stop corruption:** Bersih 2 called for “an end to all forms of corruption,” demanding that “serious action is taken against ALL allegations of corruption, including vote buying;”<sup>313</sup>

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<sup>308</sup> *ibid.*

<sup>309</sup> *ibid.*

<sup>310</sup> *ibid.*

<sup>311</sup> *ibid.*

<sup>312</sup> *ibid.*

<sup>313</sup> *ibid.*

**8. Stop dirty politics:** Bersih 2 demanded “for all political parties and politicians to put an end to gutter politics.”<sup>314</sup>

In addition, Bersih 2’s then spokesperson, Datuk Ambiga Sreenevasan, implied that their main target of campaigning was the EC in her interview with Financial Daily.<sup>315</sup>

About Bersih 2 specifically, the organizers explained that since EC had not demonstrated any “marked efforts” to change the system, the rally was aimed to “intensify pressure in light of the upcoming 13th General Elections.”<sup>316</sup>

Similar to Self-Nomination, the rally was launched to target a specific electoral event, namely upcoming major elections in the country. Nevertheless, the goals set by Bersih 2.0 organizers were more concrete and straightforward, directly targeting specific problems of the system.

### *3.2.1.2 Reference to international human rights standards*

While both movements made references to international human rights standards in their texts, the discourse was more commonly observed among Bersih 2 activists and allies than their Self-Nomination counterparts.

#### Self-Nomination

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<sup>314</sup> *ibid.*

<sup>315</sup> Bersih 2.0, ‘Bersih 2.0 Aims to Bring Election Reform Back on Agenda’ (*Bersih 2.0*) <<https://www.bersih.org/bersih-2-0-aims-to-bring-election-reform-back-on-agenda/>> accessed 29 July 2017.

<sup>316</sup> Bersih 2.0, ‘Press Statement: Launch of Perhimpunan BERSIH 2.0’ (*Bersih 2.0*, 19 June 2011) <<https://www.bersih.org/press-statement-launch-of-perhimpunan-bersih-2-0/>> accessed 29 July 2017.

Among the self-nominated candidates, Nguyen Quang A was the only one who explicitly mentioned human rights as a key component of his candidacy. The motto for his candidacy, in its original English version was “Our Rights, We Act.”<sup>317</sup>

Several candidates mentioned human rights as a generic concept rather than elaborating on it in light of international human rights standards. However, this was a change compared to the discourses adopted by Vietnamese democracy activists and movements two decades ago, which took a strong anti-communist tone. This implied that democracy activism in the country in general has adopted the common language of the international human rights movement.

## Bersih 2

International human rights standards were mentioned to a larger extent in the case of Bersih 2.

Bersih 2’s endorsing NGOs referred to international human rights standards, however, mostly to challenge the government’s repressive approach to the rally. For example, Sisters in Islam said the following in their press statement:

We wish to remind those calling for arrests or violent attacks against Bersih 2.0 that the right to freedom of assembly and freedom of expression are guaranteed under the Federal Constitution and the Universal Declaration of Human Rights. Human rights treaties ratified by the Malaysian government, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), further

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<sup>317</sup> Quang Anh Trần, ‘Cuong Lĩnh Tranh Cử Của TS. Nguyễn Quang A: “Quyền Ta, Ta Cứ làm” [Candidacy Platform of Dr. Nguyễn Quang A: “Our Rights, We Act”]’ <<http://baucuquochoi.blogspot.com/2016/06/cuong-linh-tranh-cu-cua-ts-nguyen-quang.html>>.

entrench Malaysia's obligation to respect, protect and promote universal human rights.<sup>318</sup>

The right to freedom of peaceful assembly, and sometimes the rights to freedom of movement and freedom of expression, were referred to in various occasions by the organizers and their supporters to defend the movement from attacks by the government and countermovements.<sup>319</sup>

On the other hand, international standards regarding voting rights were not mentioned as much as those concerning the abovementioned rights.

## **3.2.2 Mobilizing and organizing structures**

### *3.2.2.1 Organizing structures*

Self-Nomination was characterized by a decentralized structure, with various side campaigns and no clear sign of a group of core organizers. Another character of the movement was that it was mostly run by domestic forces, i.e. participants and allies within the country. Bersih 2's structure was the opposite, with formalized leadership and support both from within and outside the country, including the diaspora and international human rights bodies.

#### Self-Nomination

In the Self-Nomination movement, activists, including self-nominated candidates and their allies, acted in the first place as individuals rather than a collective entity. Based on this

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<sup>318</sup> Sisters in Islam, 'Sisters In Islam: Press Statement on Bersih 2.0' (*Sisters in Islam*, 27 June 2011) <<http://www.sistersinislam.org.my/news.php?item.883.27>> accessed 29 July 2017.

<sup>319</sup> Bersih 2.0, 'Gathering Will Continue at Stadium Merdeka, despite Ban on 91 Individuals' (*Bersih 2.0*, 8 July 2011) <<https://www.bersih.org/gathering-will-continue-at-stadium-merdeka-despite-ban-on-91-individuals/>> accessed 29 July 2017.

researcher's observations of participants' public online interactions and media coverage, there was no visible central leadership for the movement.

Another key characteristic of the movement's organizational structure was that self-nominated candidates worked in relatively good tandem with their allies, who were mostly individual activists and a few organizations. I am going to elaborate on the forms of these collaborations later in this section.

The most important feature of the movement was that surrounding the main campaign, in which individuals nominated themselves for the elections, there were side campaigns which took place in parallel with the main one in a closely knit manner. Notably, as mentioned previously, the Advocating Self-Nominations campaign, which used a Facebook page (“Vận Động Ứng Cử Đại Biểu Quốc Hội 2016”, which means “Advocating Running for the 2016 Legislative Elections” in English) and a website (*baucuquochoi.blogspot.com*) as the main channels of communication to the public. This side campaign regularly posted updates about the campaigning process of self-nominated candidates, in particular their activities, acts of support from allies; and allegations of misconduct and harassment by government officials and authorities, as well as alleged state-sponsored thugs. The campaign also shared practical information and resources regarding the electoral system and self-nomination procedures. Last but not least, as stated in its name, the campaign regularly called for members of the public to nominate themselves for the elections. Another remarkable side campaign was Công Khai Có Gì Mà Ngại, or “No Shame Being Transparent” in English, which called for the Electoral Council, Fatherland Front and local electoral committees to disclose and publicize all candidates' declarations of personal assets, which must be submitted to these authorities as part of the candidacy application package. Currently, the Election Law requires

candidates to submit the declaration to the Electoral Council and Fatherland Front to comply with the Law on Preventing and Combating Corruption, but has no provision that requires these two bodies to publicize the declarations that they have received. This side campaign also had a Facebook page (“Công Khai Có Gì Mà Ngại”) which shared self-nominated candidates’ voluntary disclosure of their declarations of personal assets and called for state-nominated candidates to take the same action. The Facebook page complemented an online petition, which collected online signatures of supporters to submit to the relevant authorities.<sup>320</sup> The third significant side campaign was a petition that called for a stop to compulsory voting and the state’s official discourse, or “propaganda” in the organizers’ words, that voting is a responsibility of all citizens. The petition was initiated by a group called “Nhóm Quan Sát Bầu Cử Công Bằng”, which means “Fair Election Monitoring Group in English.”<sup>321</sup> The petition was also supposed to be submitted to the same authorities as the former petition, as well as the Parliament itself, Ministry of Education and universities in the country, given the common allegation that many universities adopted measures to force students to vote. It was not possible for this researcher to find out the identity of the organizers of these three side campaigns and to determine whether they were more or less the same group of activists, yet based on the fact that they regularly co-promoted each other’s activities and supported the same pool of activists in the main Self-Nomination campaign, they can be considered as part of the overall movement.

## Bersih 2

<sup>320</sup> Công Khai Có Gì Mà Ngại, ‘Công Khai Tài Sản Ứng Viên Đại Biểu Quốc Hội / The Petition for Publicizing Asset and Income Declarations of National Assembly Candidates’ (*change.org*, 2016) <<https://www.change.org/p/hội-đồng-bầu-cử-quốc-gia-việt-nam-công-khai-tài-sản-ứng-viên-đại-biểu-quốc-hội>> accessed 26 April 2017.

<sup>321</sup> Nhóm Quan Sát Bầu Cử Công Bằng, ‘Chấm Dứt và Xử Lý Hiện Tượng Bắt Buộc Đi Bầu Cử và Tuyên Truyền Bầu Cử Là Nghĩa vụ [Stop and Tackle the Phenomenon of Compulsory Voting and the Propaganda That Voting Is a Responsibility] (Online Petition)’ (*change.org*, 2016) <<https://www.change.org/p/người-việt-nam-chấm-dứt-và-xử-lý-hiện-tượng-bắt-buộc-đi-bầu-cử-và-tuyên-truyền-bầu-cử-là-nghĩa-vụ>> accessed 26 April 2017.

The movement had a leadership body, the Steering Committee (SC), whose roles and responsibilities included the following:

- Leadership – Providing direction in terms of strategic decisions, policy, and programmes;
- Monitoring – Overseeing and assisting in the execution of programmes of the Bersih Secretariat;
- Accountability – Ensuring prudent financial management and transparency towards stakeholders.<sup>322</sup>

According to the website of Bersih 2.0, the members of the Steering Committee were elected for a term of two years by the endorsing NGOs.<sup>323</sup> Members of the SC were also representatives of their respective NGOs.<sup>324</sup> The movement’s website also mentioned that in discharging their responsibilities, the SC worked closely and “in consultation with” the endorsing NGOs and grassroots supporters.<sup>325</sup> The Steering Committee had a formal structure with positions such as a chairperson, a deputy chairperson, vice chairpersons, a treasurer, and committee members with portfolio.<sup>326</sup> As of 2011, there were 62 endorsing NGOs that formally supported the movement.<sup>327</sup>

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<sup>322</sup> Bersih 2.0, ‘Steering Committee & Secretariat’ (*Bersih 2.0*, 2016) <<https://www.bersih.org/about/people/>> accessed 29 July 2017.

<sup>323</sup> *ibid.*

<sup>324</sup> Bersih 2.0, ‘BERSIH 2.0: Focus on Demands of Perhimpunan BERSIH 2.0’ (*Bersih 2.0*, 16 June 2011) <<https://www.bersih.org/bersih-2-0-focus-on-demands-of-perhimpunan-bersih-2-0/>> accessed 29 July 2017.

<sup>325</sup> Bersih 2.0, ‘Steering Committee & Secretariat’ (n 322).

<sup>326</sup> *ibid.*

<sup>327</sup> Bersih 2.0, ‘BERSIH 2.0: Focus on Demands of Perhimpunan BERSIH 2.0’ (n 324).

The movement also had a Secretariat, which played the role as the “operation arm” of the organization and was responsible for executing its programmes and activities.<sup>328</sup> As of 2011, the secretariat was composed of five full-time staff.<sup>329</sup>

Different from the other two cases, in addition to the strong domestic character, Bersih 2 also bore an international character, with solidarity rallies organized outside Malaysia in July 2011 in several countries, including the UK, Taiwan, Korea, Australia, Japan and USA.<sup>330</sup>

Notably, Bersih 2 also received public support from international and regional human rights NGOs in its struggle with the government’s repression. For example, public statements in the forms of press release or joint letter were released by international human rights NGOs such as Amnesty International, Human Rights Watch, Asian Forum for Human Rights and Development, International Federation for Human Rights (FIDH), and World Organisation Against Torture (OMCT) addressed to the government of Malaysia.<sup>331</sup> The public statements called for protection of the right to freedom of peaceful assembly for Bersih 2 event, citing various international human rights standards regarding this right, and referring to Malaysia’s membership at the Human Rights Council.<sup>332</sup> In particular, the joint letter by various international NGOs extensively listed incidents of harassment against Bersih 2 activists and

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<sup>328</sup> Bersih 2.0, ‘Steering Committee & Secretariat’ (n 322).

<sup>329</sup> *ibid.*

<sup>330</sup> Bersih 2.0, ‘Press Statement: Launch of Perhimpunan BERSIH 2.0’ (n 316); Bersih 2.0, ‘BERSIH 2.0 Announcements: Upcoming Road Shows & Global Solidarity’ (*Bersih 2.0*, 23 June 2011) <<https://www.bersih.org/bersih-2-0-announcements-upcoming-road-shows-global-solidarity/>> accessed 29 July 2017.

<sup>331</sup> Amnesty International, ‘Malaysia: End Mass Repression of pro-Reform Activists’ (*Amnesty International*, 30 June 2011) <<https://www.amnesty.org/en/press-releases/2011/06/malaysia-end-mass-repression-pro-reform-activists/>> accessed 29 July 2017; Bersih 2.0, ‘Joint Letter from Human Rights Watch – Amnesty International – FIDH – OMCT – Forum Asia to Malaysia PM Re Bersih Crackdown’ (*Bersih 2.0*) <<https://www.bersih.org/joint-letter-from-human-rights-watch-amnesty-international-fidh-omct-forum-asia-to-malaysia-pm-re-bersih-crackdown/>> accessed 29 July 2017.

<sup>332</sup> Bersih 2.0, ‘Joint Letter from Human Rights Watch – Amnesty International – FIDH – OMCT – Forum Asia to Malaysia PM Re Bersih Crackdown’ (n 331).

called for a stop to these acts.<sup>333</sup> At the regional level, various NGOs based in Southeast Asia addressed an open letter to AICHR, ASEAN's own human rights body, calling them to take actions in their capacity to address and respond to the situation faced by Bersih activists.<sup>334</sup>

This showed that Bersih 2 received a relatively decent level of attention and support on the international and regional levels. Internally, it appeared to be a formally structured “organization,” as mentioned by its own organizers, compared to the case of Self-Nomination.

### 3.2.2.2 Resources

In terms of networking and financial resources, Self-Nomination activists were at a disadvantage compared to their Malaysian counterparts.

#### Self-Nomination

Regarding networking with allies and communication with the general public, the movement relied heavily on social media tools, in particular Facebook. This was understandable considering the fact that Facebook is the most popular social networking service in Viet Nam, and that access to the Internet has become quite common in urban areas in the country. As Nguyen Quang A, the pioneering self-nominated candidate, proudly put it:

Without social media I couldn't do anything to stand for election (*sic*), and that's why

I did not nominate myself in past elections – there were no tools available to me in the

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<sup>333</sup> *ibid.*

<sup>334</sup> Bersih 2.0, 'Open Letter to the Chairperson of AICHR Regarding the Threats and Intimidation by the Malaysian Government against the Electoral Reform Mass Rally Supporters' (*Bersih 2.0*, 1 July 2011) <<https://www.bersih.org/open-letter-to-the-chairperson-of-aichr-regarding-the-threats-and-intimidation-by-the-malaysian-government-against-the-electoral-reform-mass-rally-supporters/>> accessed 29 July 2017.

past... Social media has played a crucial role in achieving my goal of raising awareness. In this sense I have already achieved 80% of my objective.<sup>335</sup>

(Nguyen Quang A, 60 years old, original quote in English from an interview with Tia Sáng Việt Nam)

Unsurprisingly, the movement had little access to mainstream media, if any, not to mention that the self-nominated candidates were mostly featured in a negative light by pro-government and government-owned newspapers.<sup>336</sup>

This researcher had no access to data regarding financial resources available and accessible to the movement. However, given that the country so far has not had any legislation on association, and that it was revealed that the bill which had been proposed contained a provision that would prohibit domestic associations to receive foreign funding, to connect and join foreign associations, it was not likely that the movement received any significant financial support from any domestic or foreign sources.<sup>337</sup>

## Bersih 2

In terms of financial resources, Bersih 2 organizers seemed to be able to fundraise in public, or at least fundraising information was publicized on their website, as follows:

SEND YOUR CONTRIBUTIONS TO:

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<sup>335</sup> Tia Sáng Việt Nam (n 301).

<sup>336</sup> Hai Hong Nguyen, 'Are Vietnam's Elections Becoming More Democratic?' [2016] *East Asia Forum* 20 March 2016.

<sup>337</sup> Standing Committee of Viet Nam National Assembly, Bill on Associations [Dự Thảo Luật Về Hội] 2016.

By Cheque in the name of PERSATUAN KESEDARAN KOMUNITI SELANGOR  
or directly into the account at Hong Leong Islamic Bank, Account Number:  
03000064902

Note: As Bersih 2.0 is a coalition of non-governmental organisations, all contributions will be directed through Persatuan Kesedaran Komuniti Selangor (EMPOWER), secretariat for Bersih 2.0. The Accounts will be audited by ichard (*sic*) Ho & Associates.<sup>338</sup>

This was not observed in the case of Self-Nomination. Furthermore, Bersih 2 organizers also tried to be transparent about their operational expenses by detailing their spendings.<sup>339</sup>

In terms of networks, as mentioned above, Bersih 2 had a relatively good support network from regional and international NGOs. In addition, as pointed out by Holler-Fam, despite officially being a nonpartisan movement, Bersih 2 still relied on its network of political parties to mobilize participants on a mass scale.<sup>340</sup>

### 3.2.2.3 *Public support and participation*

In general, Bersih 2 received considerably a higher level of participation and public support. This was not surprising given the fact that Malaysians had considerably more experience and exposure to social movements than Vietnamese people, as pointed out in a previous section on external factors.

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<sup>338</sup> Bersih 2.0, 'Support BERSIH 2.0 for Clean and Fair Elections' (n 306).

<sup>339</sup> Bersih 2.0, 'Donations: Support Bersih in Its Moment of Need' (*Bersih 2.0*, 7 July 2011) <<https://www.bersih.org/support-bersih-in-its-moment-of-need/>> accessed 29 July 2017.

<sup>340</sup> Manuel Höller-Fam, 'Malaysia's Civil Society in Light of the Bersih Movement' <<https://th.boell.org/en/2015/12/16/malaysias-civil-society-light-bersih-movement>> accessed 29 July 2017.

## Self-Nomination

Regarding the main campaign, many of the self-nominated candidates were activists who had been familiar faces in the democratization movement in the country during the recent years, such as Nguyen Quang A, Nguyen Tuong Thuy, Nguyen Xuan Dien and Nguyen Thuy Hanh. In addition to these figures, new faces emerged, for example some well known artists such as Do Nguyen Mai Khoi, a pop singer, and Nguyen Cong Vuong, an actor. The final number of self-nominated candidates varied even among mainstream domestic and state media, yet several sources reported the figure to be between 150 to 160 people.<sup>341</sup> This figure doubled that of the 2011 Legislative Elections, which saw 83 self-nominated candidates.<sup>342</sup> However, compared to the 2007 Legislative Elections, the figure in 2016 was indeed not an improvement, if not a descent, given that 238 people nominated themselves in 2007.<sup>343</sup>

The side campaigns received humble participation from the general public. The online petition initiated by organizers of the “No Shame Being Transparent” campaign set a modest goal of only 500 signatures, yet in the end it received only 392 signatures.<sup>344</sup> Similarly, the organizers of the petition to call for a stop to compulsory voting and the state’s propaganda

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<sup>341</sup> ‘Cả Nước Có 162 Người Tự Ứng Cử Đại Biểu Quốc Hội [162 People Countrywide Nominated Themselves for the Legislative Elections]’ *Báo Điện Tử của Chính Phủ Nước Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam [Online Newspaper of the Government of the Socialist Republic of Viet Nam]* (30 March 2016)

<<http://baochinhphu.vn/Bau-cu-Quoc-hoi-HDND-cac-cap/Ca-nuoc-co-162-nguoi-tu-ung-cu-dai-bieu-Quoc-hoi/250922.vgp>> accessed 26 April 2017; Xuân Hoa, ‘Cả Nước Có 154 Người Tự Ứng Cử Đại Biểu Quốc Hội [154 People Countrywide Nominated Themselves for the Legislative Elections]’ *VnExpress* (13 April 2016) <<http://vnexpress.net/tin-tuc/thoi-su/ca-nuoc-co-154-nguoi-tu-ung-cu-dai-bieu-quoc-hoi-3386341.html>> accessed 26 April 2017.

<sup>342</sup> Đài Phát thanh và Truyền hình Hưng Yên, ‘Hơn 9% Số Người Tự Ứng Cử Đại Biểu Quốc Hội Khóa XIII [More than 9% of 13th National Assembly Candidates Are Self-Nominated]’ (*Đài Phát thanh & Truyền hình Hưng Yên [Hưng Yên Radio and Television Station]*), 4 April 2011) <<http://hungyentv.vn/92/863/Chinh-tri-xa-hoi/Hon-9-so-nguoi-tu-ung-cu-dai-bieu-Quoc-hoi-khoa-XIII.htm>> accessed 30 April 2017.

<sup>343</sup> Hung Nguyễn, ‘15 người tự ứng cử lọt vào danh sách bầu đại biểu Quốc hội [15 self-nominated candidates made it to electoral roll of National Legislative Elections]’ *VnExpress* (21 April 2011) <<http://vnexpress.net/tin-tuc/thoi-su/15-nguoi-tu-ung-cu-lot-vao-danh-sach-bau-dai-bieu-quoc-hoi-2193102.html>> accessed 30 April 2017.

<sup>344</sup> Công Khai Có Gì Mà Ngại (n 320).

that voting is a responsibility of all citizens only managed to collect 342 signature, below the target of 500 signatures.<sup>345</sup>

During the campaigning process, only one self-nominated candidate, Nguyen Quang A, mentioned that he deployed the assistance of volunteers to gather signatures from members of the public as a symbolic support for his candidacy. He claimed to have collected at least 2000 signatures,<sup>346</sup> which was an impressive figure compared to those of the abovementioned petitions.

Overall, the membership base of the movement was mostly democracy activists who had been active through the years before the current movement happened, together with some new members. It did not seem to have a mass base of membership or direct support from the wider public.

### Bersih 2

Despite repressive measures by the government and the fact that the event was reduced from a march to a rally, the actual event received mass participation from the public, with 50,000 people who managed to make their way to Stadium Merdeka – the venue of the rally on 9 July 2011.<sup>347</sup>

This researcher had no access to primary data about the demographic profile of participants.

Regarding secondary data, according to a study by Weiss, participants came from various

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<sup>345</sup> Nhóm Quan Sát Bầu Cử Công Bằng (n 321).

<sup>346</sup> Tia Sáng Việt Nam (n 302).

<sup>347</sup> Bersih 2.0, 'BERSIH 2: Walk For Democracy (9 July 2011)' (n 86); Postill (n 221); Bridget Welsh, 'People Power in Malaysia : Bersih Rally and Its Aftermath' (2011) <<http://scholarspace.manoa.hawaii.edu/handle/10125/21037>> accessed 9 October 2015.

ethnic, religious and class backgrounds; yet the movement was still an “urban phenomenon.”<sup>348</sup> Part of the reason, as explained by Weiss, was that the main venue of the rally was Kuala Lumpur, and that Malaysian’s “netizens” were predominantly urban people.<sup>349</sup>

As mentioned above, solidarity gatherings were also held in 32 cities around the world.<sup>350</sup> These rallies were organized by Global Bersih, a Switzerland-registered non-profit organization run by Malaysian diaspora to support pro-democracy civil society in the country.<sup>351</sup> Due to the limited scope of this research, though Global Bersih was closely connected to Bersih 2.0 in general, I am unable to analyse this ally movement in depth but only focus on Bersih 2.

#### *3.2.2.4 Strategies, tactics and actions*

I shall now look into the specific tactics and actions that the activists took to achieve their goals. In a nutshell, the two movements shared a common feature of having a set of key strategies, which was then supported by a set of communicative strategies. Two major differences concerned the level of strategic planning and the presence (or absence) of side campaigns.

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<sup>348</sup> Meredith L Weiss, ‘Parsing the Power of “New Media” in Malaysia’ (2013) 43 *Journal of Contemporary Asia* 591, 607.

<sup>349</sup> *ibid.*

<sup>350</sup> Kate Hodal, ‘Malaysia Braces for pro-Democracy Street Protests in Kuala Lumpur’ *The Guardian* (Kuala Lumpur, 8 July 2011) <<https://www.theguardian.com/world/2011/jul/08/malaysia-democracy-street-protests>> accessed 29 July 2017.

<sup>351</sup> Global Bersih, ‘Who We Are’ (*Global Bersih*, 2016) <<https://www.globalbersih.org/about/who-are-we/>> accessed 29 July 2017.

#### *3.2.2.4.1 Key strategies*

Self-Nomination's key strategies were concerted self-nominations with unconventional campaigning practices, while Bersih 2's main strategy was protest.

#### Self-Nomination

As mentioned above, 2016 might not be the year that witnessed the largest number of self-nominated candidates in history in Viet Nam, but this was the first time that independent candidates nominated themselves in a concerted manner to form a movement rather than separately.

Another feature that set the 2016 wave of self-nominations unique was the introduction of unconventional campaigning practices which had not been observed before in previous legislative elections in the country. This was indeed an effort of self-nominated candidates to set themselves distinct from state-nominated counterparts. Many independent candidates publicized their platforms through their personal Facebook accounts and the "Advocating Running for the 2016 Legislative Elections" website and Facebook page. These platforms were diverse in content, yet at the same time shared the common feature of highlighting urgent socio-political issues rather than repeating the vague rhetorics commonly found on state-owned media and among state-nominated candidates. Independent candidates also put much effort in constructing their public images, which had never been observed among state-nominated candidates. Their public images, as promoted on social media and related campaigns' websites, were composed of one or more of the following components: orchestrated portraits, mottos, slogans, manifestos, platforms, and interviews with the media in various forms (videos, audios, or written texts).



Image 1. Nguyen Thuy Hanh’s campaign poster. As shown on the poster, her slogan, translated from Vietnamese, is “Eliminate the Ox’s Tongue Line,<sup>352</sup> Protect National Sovereignty.”<sup>353</sup>

Many self-nominated candidates also participated in the “No Shame Being Transparent” campaign by publicizing details about their personal assets on Facebook and campaigns’ websites. For example, candidate Nguyen Tuong Thuy wrote:

With regard to personal assets, I only own the small house where I am residing... a few “grade-4” houses<sup>354</sup> and some outdated household items. Otherwise, I do not have any other property. If I become a parliamentarian, my possessions can only become fewer, not more. If my constituents later discover that I get richer in a suspicious way,

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<sup>352</sup> Also referred to as the Nine-Dash Line, the line is the demarcation of an East Asia sea territory claimed by the government of China. The line is highly controversial as the territory has been disputed by various countries in the region, including Viet Nam, the Philippines, Indonesia and Malaysia.

<sup>353</sup> Quang Anh Trần, ‘Ứng Cử Viên Đại Biểu Quốc Hội Nguyễn Thủy Hạnh: “Xóa Đường Lưỡi Bò, Bảo vệ Chủ quyền” [Legislative Elections Candidate Nguyễn Thủy Hạnh: “Eliminate the Ox’s Tongue Line, Protect National Sovereignty”]’ <<http://baucuquochoi.blogspot.com/2016/06/ung-cu-vien-ai-bieu-quoc-hoi-nguyen.html>> accessed 1 May 2017.

<sup>354</sup> The term is derived from the official housing categorization provided in a decree on construction work management. In colloquial Vietnamese, “nhà cấp 4,” which means “grade-4 houses” in English, simply means poor-quality housing.

I am willing to let them try me and dismiss myself from my position. I vow not to bribe to get into the National Assembly, and therefore I would not have to worry about recovering my “capital”.

(Nguyen Tuong Thuy, 65 years old, quote translated from a Vietnamese language interview article on *baucuquochoi.blogspot.com*<sup>355</sup>)

These candidates at the same time explicitly drew a contrast between themselves and state-nominated candidates who, in their words, “never ever publicized about their possessions.”

While self-nominations by independent candidates happened in previous National Assembly Elections in the country, the concerted actions and unconventional campaigning practices observed in 2016 were unprecedented. Pushing the boundary in this case can be considered quite radical, given the restricted political environment in Viet Nam.

## Bersih 2

As it is now commonly known, Bersih 2 specifically and Bersih 2.0 in general used mass demonstrations as the primary tactic. However, as pointed out by Khoo, a less known background information was that the Steering Committee of the first Bersih, Bersih 2.0's precedent, had exhausted all means in engaging with the EC to see no concrete results, and therefore street protests had been chosen as “the last resort.”<sup>356</sup> Protest was considered the most radical tactic which was to be used only when all other methods did not work. The

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<sup>355</sup> Tường Thụy Nguyễn, ‘Nguyễn Tường Thụy: Tuyên Bố về Việc Tự Ứng Cử ĐBQH Khóa 14 [Nguyễn Tường Thụy: Announcement about Self-Nomination for 14th Legislative Elections]’ <<http://baucuquochoi.blogspot.com/2016/03/nguyen-tuong-thuy-tuyen-bo-ve-viec-tu.html>> accessed 1 May 2017.

<sup>356</sup> Ying Hooi Khoo, ‘Electoral Reform Movement in Malaysia: Emergence, Protest, and Reform’ (2014) 6 Suvannabhumi 85.

method however was not unconventional in the country. Instead, what received more attention about Bersih 2 was its historic scale of public participation.

Bersih 2 was originally planned to be a march through the streets of Kuala Lumpur. However, after an audience with the King, the then Chairperson of Bersih 2.0 announced that the scheduled rally would be in a stadium rather than on the streets.<sup>357</sup> However, the event was still deemed illegal by the government. Following this change in format of the rally, Najib Rajak initially offered Stadium Merdeka as the venue for the event. Nevertheless, as mentioned above, the government allegedly reneged on this offer, and the venue request was not approved by the stadium's management. On 6 July, the organizers announced that the event would still happen on 9 July at 2pm as planned even if the venue would not be granted.<sup>358</sup> They eventually moved on with what they planned to do, knowing that what they had been doing and were going to do would put them at a risk of legal consequences.

The organizers of Bersih 2 also issued logistic instructions for participants regarding the main event.

#### Guidelines for 9/7 (pls spread!)

- 1) Come to KL as early as possible, try to avoid driving into the city.

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<sup>357</sup> Yen Mun Lee, 'Bersih's Ambiga: No Street March, Rally Will Be Held in Stadium' *The Star Online* (Kuala Lumpur, 5 July 2011) <<https://web.archive.org/web/20121021172145/http://thestar.com.my/news/story.asp%3Ffile=/2011/7/5/nation/20110705160353>> accessed 29 July 2017; Syed Mu'az Syed Putra, 'Ambiga: Bersih to Rally in Stadium, Not on Streets' *The Malaysian Insider* (Kuala Lumpur, 5 July 2011) <<https://web.archive.org/web/20160202064927/http://www.themalaysianinsider.com/malaysia/article/ambiga-bersih-to-rally-in-stadium-not-on-streets/>>.

<sup>358</sup> Bersih 2.0, 'Bersih 2.0 WILL Happen at Stadium Merdeka on July 9th (Eng/BM)' (*Bersih 2.0*, 6 July 2011) <<https://www.bersih.org/bersih-2-0-will-happen-at-stadium-merdeka-on-july-9th/>> accessed 29 July 2017; Bersih 2.0, '2pm, July 9th, Stadium MERDEKA: Malaysia's Moment of Truth' (*Bersih 2.0*, 8 July 2011) <<https://www.bersih.org/2pm-july-9th-stadium-merdeka-malaysias-moment-of-truth/>> accessed 29 July 2017.

- 2) While waiting for 2pm, feel free to hang out at public places near Stadium Merdeka (support local business!)
- 3) Muslims are welcome to perform their Zohor prayers at appropriate mosques.
- 4) Before 2pm, make your way to Stadium Merdeka.
- 5) It's up to you to wear yellow or not. Those in yellow may face greater obstacles trying to get into the city.<sup>359</sup>

#### 3.2.2.4.2 *Communicative strategies*

The activists of two movements used a more or less similar set of communicative strategies to support the main strategies, both in terms of the cause in focus, i.e. voting rights, and the rights pertinent to the main strategies, in particular freedom of peaceful assembly and association, and freedom of expression. I define communicative strategies as those that involved disseminating information to the public and / or other stakeholders.

### **Monitoring and reporting corrupt practices regarding electoral processes and harassment against organizers and participants**

#### Self-Nomination

To meet the goal of raising awareness about “dark sides” of the electoral system, activists and their media allies documented and exposed corrupt practices by state authorities regarding the electoral process and harassment by state authorities and alleged henchmen, mostly through personal Facebook accounts, campaigns’ Facebook pages, and news articles. Some self-nominated candidates even assumed failure, but still joined the movement since their main goal was not to win but to raise public awareness about systemic problems of the electoral system. As candidate Dang Bich Phuong put it:

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<sup>359</sup> Bersih 2.0, ‘Basic Guidelines for 9/7 (BM/Eng)’ (*Bersih 2.0*, 7 July 2011) <<https://www.bersih.org/basic-guidelines-for-97-bmeng/>> accessed 29 July 2017.

I have no chance [to win the elections]... [But I still want to run for the elections because] I think that overcoming the fear within myself is a change. If many people do the same, this society will change.

(Dang Bich Phuong, 56 years old, quote translated from a Vietnamese language interview article on *baucuquochoi.blogspot.com*<sup>360</sup>)

This tactic was highly common among activists, including both self-nominated candidates and their allies. Documentation took various forms: descriptive Facebook posts, articles, photographs, and videos mostly in Vietnamese and in some cases in English. The latter might have explained why the movement received some international media attention. Updates were usually posted very soon after such incidents happened, ranging between a few hours to a day later. Remarkably, Pham Doan Trang, a prominent democracy activist, despite not being a self-nominated candidate herself, produced a comprehensive 30-page report which documented corrupt practices, undemocratic electoral procedures and harassment experienced by independent candidates during the movement.<sup>361</sup> The report was originally written in English and translated into Vietnamese by volunteer translators.<sup>362</sup> Self-nominated candidates and their supporters reported, among others, unexpected home visits by local state officials,<sup>363</sup> groundless verbal attacks against such candidates during neighbourhood

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<sup>360</sup> Bích Phượng Đặng, ‘Thoát Khỏi Nỗi Sợ Hãi Của Bản Thân Đã Là Một Sự Thay Đổi [Overcoming One’s Own Fear Is Already a Change]’ <<http://baucuquochoi.blogspot.com/2016/03/thoat-khoi-noi-so-hai-cua-ban-than-la.html>> accessed 1 May 2017.

<sup>361</sup> Doan Trang Pham, ‘Unfair Elections In Vietnam: How The Communist Party Manipulates The Process’ (2016) <<https://www.diendan.org/tai-lieu/unfair-elections-how-the-vcp-manipulates-the-process/UNFAIR%20ELECTIONS%20IN%20VIETNAM.pdf>>.

<sup>362</sup> Doan Trang Pham, ‘Bầu Cử Phi Dân Chủ Ở Việt Nam: Đảng Cộng Sản Thao Tung Tiến Trình Bầu Cử Như Thế Nào [Unfair Elections In Vietnam: How The Communist Party Manipulates The Process]’ (Anh Hòa Trần and others trs, 2016) <<https://www.slideshare.net/phamdoantrang/bau-cu-phi-dan-chu-o-viet-nam>>.

<sup>363</sup> BBC, ‘Tự Ứng Cử ĐBQH “Như Cá Nằm Trên Thớt” [Nominating Oneself for Legislative Elections Is like “a Fish on a Chopping Board”]’ *BBC Vietnamese* (1 April 2016) <[http://www.bbc.com/vietnamese/multimedia/2016/04/160401\\_mai\\_khoi\\_ung\\_vien\\_tu\\_do](http://www.bbc.com/vietnamese/multimedia/2016/04/160401_mai_khoi_ung_vien_tu_do)> accessed 2 May 2017; Do Nguyen Mai Khoi, ‘Nghĩ Cho Cùng Thì 47% Số Phiếu Ủng Hộ Tới qua Là... [After All, the 47%

constituent meetings by constituent representatives whom they had never met, as opposed to supportive atmosphere for state-nominated candidates during the same meetings, leading to the eventual elimination of independent candidates;<sup>364</sup> blocking independent candidates' supporters from constituent meetings;<sup>365</sup> slinging bags of odorous shrimp sauce onto the supporters as they were standing outside one of constituent meetings' venue by unknown thugs;<sup>366</sup> bureaucratic hassles caused by local People's Committee right from the initial stage of filling in candidacy application documents;<sup>367</sup> discrepancies regarding the compliance of the election law by communist party members themselves;<sup>368</sup> and unfounded speculations by state media that self-nominated candidates received funding from "foreign reactionary groups."<sup>369</sup>

Equally important, self-nominated candidates and their ally activists also provided the public with information and knowledge about the Election Law and electoral processes, at the same

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Figure of Votes for Me Was...]' <<https://www.facebook.com/mai.khoi.official/posts/1692591114328851>> accessed 30 July 2017.

<sup>364</sup> Hoa Kim Ngo, 'Cần Nhiều Những Giọt Nước Mắt Cho Đất Nước [We Need More Tears for Our Country]' <<https://www.facebook.com/suong.quynh.52/posts/1870100719883387>> accessed 30 July 2017; Đoàn Trang Phạm, 'Independent Rejected amid Uproar' (*Vietnam Right Now*, 31 March 2016) <<http://vietnamrightnow.com/2016/03/independent-rejected-amid-uproar/>> accessed 1 May 2017; Vận Động Ứng Cử Đại Biểu Quốc Hội 2016, 'Ứng Cử Viên Nguyễn Quang A Bị Tổ Dân Phố Loại [Candidate Nguyễn Quang A Was Ruled out in Constituency Meeting at Neighbourhood]' (*Facebook*, 9 April 2016) <<https://www.facebook.com/daibieuQH/posts/1072615316135182>> accessed 30 July 2017.

<sup>365</sup> A Nguyen Quang, 'Trò Gì Đây? [What the Hell Is This?]' <<https://www.facebook.com/photo.php?fbid=1791796977715003&set=a.1596208090607227.1073741827.100006541548683&type=3>> accessed 30 July 2017; BBC, 'Tự Ứng Cử ĐBQH "Như Cá Nằm Trên Thớt" [Nominating Oneself for Legislative Elections Is like "a Fish on a Chopping Board"]' (n 363).

<sup>366</sup> BBC, 'Ứng Viên Tự Do "Bị Gây Khó Dễ" [Self-Nominated Candidates "Confronted with Obstacles"]' *BBC Vietnamese* (29 March 2016) <[http://www.bbc.com/vietnamese/vietnam/2016/03/160329\\_hoangdung\\_quochoi](http://www.bbc.com/vietnamese/vietnam/2016/03/160329_hoangdung_quochoi)> accessed 1 May 2017.

<sup>367</sup> Đoàn Trang Phạm, 'Ứng Viên Độc Lập "Gặp Khó" Từ Khâu Hồ Sơ [Independent Candidates "Face Obstacles" from Paperwork Stage]' *BBC Vietnamese* (28 February 2016) <[http://www.bbc.com/vietnamese/forum/2016/02/160228\\_doantrang\\_vn\\_elections\\_2016](http://www.bbc.com/vietnamese/forum/2016/02/160228_doantrang_vn_elections_2016)> accessed 1 May 2017.

<sup>368</sup> Chú Tễu, 'TS Nguyễn Quang A Bình Luận [Dr Nguyễn Quang A Commented]' <<https://www.facebook.com/photo.php?fbid=717232741713003&set=a.220258501410432.31079.100002788524244&type=3>> accessed 30 July 2017.

<sup>369</sup> Philip Sherwell, 'Vietnam's "Lady Gaga" Aims for Switch from Pop to Politics in Challenge to Staid Communist Rule' *The Telegraph* (17 March 2016) <<http://www.telegraph.co.uk/news/worldnews/asia/vietnam/12196698/Vietnams-Lady-Gaga-aims-for-switch-from-pop-to-politics-in-challenge-to-staid-communist-rule.html>> accessed 1 May 2017.

time raised awareness about the flaws of the system, and called for electoral reforms and democratization. Such information and knowledge was provided mostly through online channels and, in very few cases, via offline platforms. The information provided ranged from purely procedural knowledge to critical analyses of the electoral system. To give an example of the former, the “Advocating Running for the 2016 Legislative Elections” website published an article on which documents were required in the candidacy application package.<sup>370</sup> In another article, the website provided details on the opening hours and location of the place where candidacy applications must be submitted.<sup>371</sup> Notably, the website of a local law firm that also had a section providing basic legal knowledge for the public published an article on the basics of running for Legislative Elections from a legal perspective, including information such as who can and cannot run for the elections, what were required for the candidacy application, and where and when to submit the application, all in the format of reader-friendly infographs.<sup>372</sup> The only offline activity observed in this area was by Nguyen Quang A. According to the “Advocating Running for the 2016 Legislative Elections” website, after an academic talk that he participated as a speaker, Mr A advised some fellow independent candidates who were also present at the event on administrative procedures, processes and laws related to legislative elections.<sup>373</sup> Other activists and initiatives took a more critical approach in raising awareness about election laws and procedures, communicating not only procedural knowledge but also critical analyses and

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<sup>370</sup> Văn Minh Lưu, ‘Hồ Sơ Ứng Cử Đại Biểu Quốc Hội Khóa 14 [Candidacy Application Package for 14th National Assembly Elections]’ <<http://baucuquochoi.blogspot.com/2016/03/ho-so-ung-cu-ai-bieu-quoc-hoi-khoa-14.html>> accessed 30 July 2017.

<sup>371</sup> Quang Anh Trần, ‘Ứng Cử Viên Đặng Bích Phượng Nộp Hồ Sơ Ứng Cử [Candidate Đặng Bích Phượng Submitted Candidacy Application]’ <<http://baucuquochoi.blogspot.com/2016/06/ung-cu-vien-ang-bich-phuong-nop-ho-so.html>> accessed 30 July 2017.

<sup>372</sup> Ezlaw, ‘Những Điều Cần Biết về Ứng Cử Đại Biểu Quốc Hội [Things One Needs to Know about Running for National Assembly Elections]’ <<http://www.ezlawblog.com/2016/03/nhung-ieu-can-biet-ve-ung-cu-ai-bieu.html>> accessed 29 October 2016.

<sup>373</sup> Văn Minh Lưu, ‘Tiến Sĩ Nguyễn Quang A: “Nếu Cái Gì Cũng Đúng Tuyệt Đối Thì Loài Người Không Còn Gì Phát triển” [Dr Nguyễn Quang A: “If Everything Is an Absolute Truth, Humankind Has Nothing More to Develop”]’ <<http://baucuquochoi.blogspot.com/2016/03/tien-sy-nguyen-quang-neu-cai-gi-cung.html>>.

explicit advocacy messages. For example, Pham Doan Trang's article on her personal blog provided basic information about the electoral process, at the same time pointing out the undemocratic practices which were more or less hidden from the Election Law, based on her observations and research about the previous Legislative Elections.<sup>374</sup> Trinh Huu Long, another prominent democracy activist who did not run for the elections this time, published a widely shared article on [luatkhoa.org](http://luatkhoa.org), an e-journal on legal studies of which he was the editor-in-chief. Titled "10 tasks of a parliamentarian" and addressing the audience as "you," Long's article started by explaining the three key functions of the National Assembly as mandate under the Constitution, and continued by listing some important tasks for a parliamentarian, for instance making laws and deciding, among others, on the following matters: who to take the most powerful posts in the country, national budgets, the ceiling for public debts, taxes, mega development projects, national security and defence.<sup>375</sup>

## Bersih 2

Similar to their Vietnamese counterparts, Bersih 2 activists regularly documented corrupt practices regarding electoral processes. This strategy served the primary aim of the movement.

The monitoring concerned various levels of elections. For example, the movement's website reported irregularities in by-elections in Hulu Selangor in 2010, such as reassigning of 14,000 registered voters to polling centres different from the ones designated to them in 2008,

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<sup>374</sup> Doan Trang Pham, 'ABC về Bầu Cử Quốc Hội – Dành Cho Các Ứng Viên Tự Do [ABC about National Assembly Elections - for Independent Candidates]' <<http://www.phamdoantrang.com/2016/02/abc-ve-bau-cu-quoc-hoi-danh-cho-cac-ung.html>> accessed 30 July 2017.

<sup>375</sup> Hữu Long Trịnh, '10 Điều Việc Của Một Đại Biểu Quốc Hội [10 Things on the to-Do List of a Parliamentarian]' [2016] *Luật Khoa* <<http://luatkhoa.org/2016/02/10-dau-viec-cua-mot-dai-bieu-quoc-hoi/>> accessed 30 July 2017.

arbitrary transfer of voters from one constituency to another.<sup>376</sup> Another example was the alleged “abuse of power” before the Sarawak state elections in 2011, whereby the political secretary to the state’s Chief Minister called on members of the country’s paramilitary civil volunteer corps (Ikatan Relawan Rakyat or RELA in short) to be “loyal” to the government by ensuring that Barisan Nasional candidates would win.<sup>377</sup> Another corrupt practice documented was attacks on the opposition and political dissidents.<sup>378</sup> However, in terms of content space on Bersih 2.0’s website during the course of Bersih 2, this area of content took a smaller proportion than that which concerns violations of the right to freedom of peaceful assembly.

Indeed, the substantial majority of content in this area concerned violations of the latter. Acts of harassment and crackdown were documented by Bersih 2.0’s organizers through the movement’s own website and social media channels, as well as by NGOs and other allies. Documentation was in the forms of texts, video clips and photographs. Numerous forms of harassment were documented, including lockdown of entry to Kuala Lumpur in the days leading up to the rally; barring individuals from entering the city; use of tear gas and chemical-laced water cannons by the police against the crowd; arrest of 1667 people; deportation of activists from a state; death threats against some members of the Steering Committee; arrests of people distributing pamphlets or wearing Bersih 2.0’s T-shirts; raid of Bersih 2.0 office without a warrant and confiscation of campaign materials and office equipments; rejection of the request to use Stadium Merdeka for the rally; the use of racially

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<sup>376</sup> Bersih 2.0, ‘Press Release Issued by Bersih on 22 April 2010, Kuala Lumpur’ (*Bersih 2.0*, 22 April 2010) <<https://www.bersih.org/press-release-issued-by-bersih-on-22-april-2010-kuala-lumpur/>> accessed 30 July 2017.

<sup>377</sup> Bersih 2.0, ‘RELA Must Not Be Exploited for Political Gains’ (*Bersih 2.0*, 8 April 2011) <<http://www.bersih.org/3819/>> accessed 30 July 2017.

<sup>378</sup> Bersih 2.0, ‘BERSIH 2.0: Persecution of Opposition Hurts Political Stability and Economy’ (*Bersih 2.0*, 15 July 2010) <<https://www.bersih.org/bersih-2-0-persecution-of-opposition-hurts-political-stability-and-economy/>> accessed 30 July 2017.

and ethnically divisive discourse to describe the rally (for instance, labelling supporters with terms such as “anti-Islam” and “funded by foreign Christian groups;”<sup>379</sup> and ultimately the banning and labelling the event as “evil and unlawful”).<sup>380</sup> Some documentations were very detailed, with incidents described in chronological order.<sup>381</sup>

At the same time with documenting acts of harassment and crackdown, Bersih 2’s organizers called for an investigation of these acts, as well as reviewing the Penal Code and Police Act 1967 and removing provisions which were intended to restrict the right to freedom of peaceful assembly.<sup>382</sup> It can be seen that although the focus of the movement was the right to vote, at this point advocacy for another human right received equal weight, if not more attention in the days leading to, during and a few days after the main event.

### **Communication with the public**

While Self-Nomination relied heavily on social media, Bersih 2 demonstrated a more varied repertoire of tactics to reach out to the public.

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<sup>379</sup> Centre for Independent Journalism (CIJ), ‘CIJ: State Should Stop Fueling Tensions over Bersih Rally’ (*Bersih 2.0*, 29 June 2011) <<https://www.bersih.org/cij-state-should-stop-fueling-tensions-over-bersih-rally/>> accessed 30 July 2017.

<sup>380</sup> Bersih 2.0, ‘BERSIH 2: Walk For Democracy (9 July 2011)’ (n 86); Michael O’Shannassy, ‘Malaysia in 2011’ (2012) 52 *Asian Survey* 165; Sisters in Islam (n 318); Bersih 2.0, ‘Open Letter to the Chairperson of AICHR Regarding the Threats and Intimidation by the Malaysian Government against the Electoral Reform Mass Rally Supporters’ (n 334); Bersih 2.0, ‘Rejection Letter of Stadium Merdeka Request’ (*Bersih 2.0*, 6 July 2011) <<https://www.bersih.org/rejection-letter-of-stadium-merdeka-request/>> accessed 30 July 2017; Bersih 2.0, ‘Malaysian March for Clean Government Meets Dirty Tricks’ (*Bersih 2.0*, 8 July 2011) <<https://www.bersih.org/malaysian-march-for-clean-government-meets-dirty-tricks/>> accessed 30 July 2017.

<sup>381</sup> For example, see Bersih 2.0, ‘Urgent Appeal: 1 July 2011 Stop the Campaign of Intimidation and Harassment of Human Rights Defenders’ (*Bersih 2.0*, 3 July 2011) <<http://www.bersih.org/urgent-appeal-1-july-2011-stop-the-campaign-of-intimidation-and-harrasment-of-human-rights-defenders/>> accessed 30 July 2017; Bersih 2.0, ‘Live Updates’ (*Bersih 2.0*, 8 July 2011) <<https://www.bersih.org/live-updates/>> accessed 30 July 2017.

<sup>382</sup> Bersih 2.0, ‘Joint Memorandum to SUHAKAM by BERSIH 2.0 and SUARAM on Excessive Police Abuse of Powers during Perhimpunan BERSIH 2.0 on 9 July 2011’ (*Bersih 2.0*, 14 July 2011) <<https://www.bersih.org/joint-memorandum-to-suhakam-by-bersih-2-0-and-suaram-on-excessive-police-abuse-of-powers-during-perhimpunan-bersih-2-0-on-9-july-2011/>> accessed 30 July 2017.

## Self-Nomination

As mentioned previously, Self-Nomination activists relied heavily on social media, especially Facebook, to communicate with the public and their supporters.

Many self-nominated candidates called for public support of their candidacy by asking members of the public to submit support signatures, both online through social media, and offline, as Nguyen Quang A and his volunteers did. Alternative forms of expression of support were comments on independent candidates' Facebook wall under their candidacy announcement posts. Nguyen Quang A explained the rationale for the tactic as follows:

- 1) It is totally not required [for self-nominated candidates] to gather support signatures!
- 2) However, it is the right of candidates to collect support signatures for themselves all around the country. The more signatures one can collect, the more significant their moral and psychological values are (although they have no legal value) because:
  - They will help the candidates feel more confident;
  - They can alleviate the “attack” of “fake constituents” invited to constituent meetings, a requirement that must be abolished.

(Nguyen Quang A, 60 years old, quote translated from a Vietnamese language Facebook post<sup>383</sup>)

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<sup>383</sup> A Nguyen Quang, ‘Rất Vui vì Thấy Ngày Càng Có Nhiều Người... [Very Happy to See There Are More and More People...]' <<https://www.facebook.com/daibieuQH/posts/1030668353663212>> accessed 30 July 2017.

For the case of Bersih 2, when it comes to communication with the public, it was in particular a challenge because the movement's organizers seemed to aspire to reach out to citizens all around the country, and Malaysia is a relatively big country (over 330,000 km<sup>2</sup> in area), with its population spread out around its territory.

As mentioned above in the section on organizing structure, Bersih 2's organizers tried to overcome this by designating Regional Vice Chairpersons who were in charge of specific regions in the country.

In terms of communicating with the public, the movement used both the Malay and English languages, one the national language and the other the country's informal lingua franca, although texts in English were much more common. Furthermore, the movement issued a lot of press releases, and held press conferences, especially for landmark events such as the launch of Bersih 2 rally on 19 June 2011.<sup>384</sup> Another commonly used practice was roadshows whereby the movement in general and the upcoming main event specifically was promoted.<sup>385</sup>

In addition to disseminating information to the public, the organizers called for people to write protest letters to government authorities, providing them with a sample letter.<sup>386</sup>

It is especially important to mention the use of social media by Bersih 2 activists. The use of social media was instrumental to the mobilizing process of Bersih 2, as highlighted by

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<sup>384</sup> Bersih 2.0, 'Majlis Pelancaran Perhimpunan BERSIH 2.0' (*Bersih 2.0*, 7 June 2011) <<https://www.bersih.org/majlis-pelancaran-perhimpunan-bersih-2-0/>> accessed 30 July 2017; Bersih 2.0, 'Press Statement: Launch of Perhimpunan BERSIH 2.0' (n 316).

<sup>385</sup> Bersih 2.0, 'BERSIH 2.0 Announcements: Upcoming Road Shows & Global Solidarity' (n 330).

<sup>386</sup> Bersih 2.0, 'Urgent Appeal: 1 July 2011 Stop the Campaign of Intimidation and Harassment of Human Rights Defenders' (n 381).

various scholars. Facebook and Twitter were the two principal social media channels used by Bersih 2 activists,<sup>387</sup> and that these tools helped them overcome roadblocks and a large police presence to mobilize between 10,000 and 20,000 people to the rally.<sup>388</sup> Social media boosted the movement's presence on the virtual space to a large extent, with almost 34,000 Twitter users engaged with the campaign between 9 June and 14 August 2011, and over 263,000 tweets using the hashtag #bersih.<sup>389</sup> Indeed, as Weiss pointed out, initially support from opposition political parties and roadshows did not work as mobilization tools due to arrests; therefore, organizers made use of the Internet to mobilize supporters.<sup>390</sup> In this case, it can be seen that the active use of social media was a common feature between the two movements.

On a final note, the use of colours and symbol can be considered a strategy to create a visual identity for the movement. The movement had a logo, colour code (yellow) and signature yellow T-shirt.<sup>391</sup>

## **Communication with the media**

### Self-Nomination

The movement received remarkable coverage by international media outlets. BBC Vietnamese had been a close media ally to the overall democratization movement in the country for the past decade, and it continued to its support this time through regular updates on the happenings of the movement as well as the whole process of the elections in general. In particular, it generously provided a platform for activists to publish articles that served

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<sup>387</sup> Jason Abbott, 'Introduction: Assessing the Social and Political Impact of the Internet and New Social Media in Asia' (2013) 43 *Journal of Contemporary Asia* 579; Postill (n 221).

<sup>388</sup> Abbott (n 387).

<sup>389</sup> Ross Tapsell, 'The Media Freedom Movement in Malaysia and the Electoral Authoritarian Regime' (2013) 43 *Journal of Contemporary Asia* 613.

<sup>390</sup> Weiss (n 348).

<sup>391</sup> Höller-Fam (n 340).

many of the purposes discussed above, such as documenting and exposing corrupt practices and harassment, presenting their candidacy platforms, and explaining the goals behind their candidacy through interviews.<sup>392</sup> In addition to BBC, the movement received unprecedentedly remarkable coverage by international English language news agencies such as ABC, TIME.com, The Economist, The Straits Times, and The Telegraph,<sup>393</sup> compared to previous democratization movements. Some candidates even answered interviews in English, such as Nguyen Quang A.<sup>394</sup> Regarding domestic mainstream media, the movement did not seem to have any local media allies, although a few rare articles reported on the phenomenon of a surge in the number of self-nominated candidacies with a relatively neutral tone.<sup>395</sup> Some domestic mainstream newspapers even demonstrated hostile attitudes towards independent candidates.<sup>396</sup>

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As Self-Nomination, Bersih 2 received some coverage by international mass media. Among major international media agencies which covered the event were Wall Street Journal,<sup>397</sup>

<sup>392</sup> For example, see BBC, 'Tự Ứng Cử ĐBQH "Như Cá Nằm Trên Thớt" [Nominating Oneself for Legislative Elections Is like "a Fish on a Chopping Board"]' (n 363).

<sup>393</sup> ABC News, 'Vietnam's "Lady Gaga" Joins Groups of Dissidents and Activists Running for Parliament' *ABC News* (17 March 2016) <<http://www.abc.net.au/news/2016-03-17/mai-khoi-vietnam-lady-gaga-running-for-parliament/7255670>> accessed 30 July 2017; Simon Lewis, 'Vietnam Gets to Vote in Elections, but the Communist Party Picks Who's on the Ballot' *Time* (23 May 2016) <<http://time.com/4344416/vietnam-elections-independent-communist/>> accessed 30 July 2017; The Economist, 'Gatecrashers: The Politics of Protest in Vietnam' *The Economist* (Hanoi, 17 March 2016) <<https://www.economist.com/news/asia/21695082-running-parliament-political-outsiders-challenge-one-party-rule-gatecrashers>> accessed 30 July 2017; The Straits Times, 'Vietnam's "Lady Gaga" among Motley Group Running for Parliament' *The Straits Times* (Hanoi, 17 March 2016) <<http://www.straitstimes.com/asia/se-asia/vietnams-lady-gaga-among-motley-group-running-for-parliament>> accessed 30 July 2017; Sherwell (n 369).

<sup>394</sup> Tia Sáng Việt Nam (n 302).

<sup>395</sup> Hải Võ, '95% số người tự ứng cử đại biểu Quốc hội tại Hà Nội bị loại [95% self-nominated candidates for Legislative Elections eliminated in Hanoi]' *VnExpress* (15 April 2016) <<http://vnexpress.net/tin-tuc/thoi-su/95-so-nguoi-tu-ung-cu-dai-bieu-quoc-hoi-tai-ha-noi-bi-loai-3387671.html>> accessed 30 July 2017.

<sup>396</sup> For example, see Đại Anh, 'Quốc Hội Không Phải Là Phường Chèo! [Parliament Is Not a Comedy Guild!]' *Petro Times* (2 March 2016) <<http://petrotimes.vn/quoc-hoi-khong-phai-la-phuong-cheo-390311.html>> accessed 30 July 2017.

<sup>397</sup> John R Malott, 'Running Scared in Malaysia' *Wall Street Journal* (8 July 2011)

<<https://www.wsj.com/articles/SB10001424052702303544604576431443001815406>> accessed 30 July 2017.

BBC,<sup>398</sup> and The Guardian.<sup>399</sup> The coverage mostly reported acts of harassment and crackdown against activists. However, compared to Hong Kong, international media coverage for Bersih 2 was much less extensive in content and smaller in quantity.

Regarding domestic media, amidst the strong presence of pro-government media and limited press freedom as mentioned in a previous section, Bersih 2 had very few domestic media allies, such as Malaysiakini, which reported regularly about incidents of harassment and crackdown against the movement. Bersih 2 activists also made an effort to appear on domestic media through interviews to promote the cause of the movement.<sup>400</sup>

### **Communication with government authorities**

The activists chose the targets for this set of communicative strategies as they saw fit depending on the purposes, situations and domestic political contexts.

#### Self-Nomination

Several self-nominated candidates themselves and their supporters delivered requests or demands regarding corrupt practices, irregularities and harassment related to the electoral process, and documented the delivery through a video, photograph, or text report on social media. The submission of such requests and demands at the same time served the purpose of raising awareness about corrupt practices and harassment. For example, Pham Doan Trang documented an inquiry by another activist, Luu Van Minh, on how Vietnamese citizens who were based overseas can run for the elections, given that vetting by the Fatherland Front was

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<sup>398</sup> BBC, 'Malaysia: Police Fire Tear Gas at Banned Rally' *BBC News* (9 July 2011) <<http://www.bbc.com/news/world-asia-pacific-14076424>> accessed 30 July 2017.

<sup>399</sup> Hodal (n 350).

<sup>400</sup> The Edge Financial Daily, 'Bersih 2.0 Aims to Bring Election Reform Back on Agenda' (*Bersih 2.0*, 31 May 2010) <<https://www.bersih.org/bersih-2-0-aims-to-bring-election-reform-back-on-agenda/>> accessed 30 July 2017.

compulsory.<sup>401</sup> Nguyen Anh Tuan, another prominent activist, posted an invitation on his Facebook account for people to join him to hand in the petition organized by the “No Shame Being Transparent” to the local authorities.<sup>402</sup> Similar actions were observed to be taken by Nguyen Quang A and Nguyen Xuan Dien.<sup>403</sup> Such actions also served the purpose of informing the government that its people were concerned and dared to voice their concerns and demands for change.

## Bersih 2

Bersih 2 activists issued several public statements in their attempts to communicate with different bodies of the government. The tone and content of such communications varied.

At an earlier stage, the activists issued statements to call for the fulfilment of the right to vote of citizens. For example, in March 2011, Bersih 2.0 organizers issued a joint statement together with their ally NGOs to call for the right to vote through postal ballot for Sarawakians residing outside the state.<sup>404</sup>

On 15 June 2011, the activists expressed a cooperative attitude towards the police and all other authorities to ensure the peaceful nature of the event in response to the police’s

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<sup>401</sup> Văn Minh Lưu, ‘Vài Câu Hỏi Dành Cho UB Thường vụ Quốc Hội, Hội Đồng Bầu Cử Quốc Gia [Some Questions for Standing Committee of National Assembly, National Electoral Council]’ <<http://baucuquochoi.blogspot.com/2016/03/vai-cau-hoi-danh-cho-ub-thuong-vu-quoc.html>>.

<sup>402</sup> Nguyen Anh Tuan, ‘Sau 27-4 Tôi Đây Bạn Nào Ở Đà Nẵng Đi Cùng Minh... [After 27 April, Who Is Going to Join Me in Đà Nẵng...]’ <<https://www.facebook.com/nguyen.anh.tuan8690/posts/1319519954729561>> accessed 30 July 2017.

<sup>403</sup> A Nguyen Quang, ‘Tôi Đến Hội Đồng BCQG Để Đưa Yêu Cầu Cho 3 Ông To... [I Went to National Electoral Council to Deliver Requests to 3 Big Guys...]’ <<https://www.facebook.com/a.nguyenquang.16/posts/1774770926084275>> accessed 30 July 2017; Chú Tễu, ‘Kiến Nghị [Request]’ <<https://www.facebook.com/nguyensexuan.dien.1/posts/710157892420488>> accessed 30 July 2017.

<sup>404</sup> ‘Let the Sarawakian Diaspora Vote by Postal Ballot (Civil Society Joint Statement)’ (*Saya Anak Bangsa Malaysia*, 22 March 2011) <[http://www.sayaanakbangsamalaysia.net/index.php?Itemid=88&catid=1:letters&id=557:let-the-sarawakian-diaspora-vote-by-postal-ballot&option=com\\_content&view=article](http://www.sayaanakbangsamalaysia.net/index.php?Itemid=88&catid=1:letters&id=557:let-the-sarawakian-diaspora-vote-by-postal-ballot&option=com_content&view=article)> accessed 30 July 2017.

announcement that they would not issue a permit for the event.<sup>405</sup> Later in the same month, the activists also called for cooperation on the part of PM Najib Rajak by joining and guaranteeing protection of the event from violence in response to his statement that participants were to be held responsible for any chaotic situations on the day.<sup>406</sup> As the date of the event drew closer with an increase in incidents of harassment against the organizers and supporters, the activists issued several calls for action addressed to Najib and his government to stop the harassment by state authorities<sup>407</sup> and to cooperate by instructing the management of Stadium Merdeka to approve the use of the venue for the event and releasing all those who were detained in connection with the movement.<sup>408</sup>

Notably, the activists made an effort to reach the King in their struggle. Earlier, the King seemed to be a source of support as he issued a decree “on the urgent need for dialogue and reconciliation, to facilitate the emergence of a national consensus on electoral reforms and democratization.”<sup>409</sup> Bersih 2’s organizers then called for an audience with the King to lobby for its cause. Two days after the date of the rally, the organizers also addressed a call to the King for the establishment of a Royal Commission of Inquiry which should review and propose improvements to the electoral system, and for a release of those who had been detained under the Emergency (Public Order and Prevention of Crime) Ordinance 1969.<sup>410</sup>

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<sup>405</sup> Bersih 2.0, ‘BERSIH 2.0’s Response to Statements Made by the Police’ (*Bersih 2.0*, 15 June 2011) <<https://www.bersih.org/bersih-2-0s-response-to-statements-made-by-the-police/>> accessed 30 July 2017.

<sup>406</sup> Bersih 2.0, ‘Najib Needs to Protect Human Rights’ (*Bersih 2.0*, 27 June 2011) <<https://www.bersih.org/najib-needs-to-protect-human-rights/>> accessed 30 July 2017.

<sup>407</sup> Bersih 2.0, ‘Urgent Appeal: 1 July 2011 Stop the Campaign of Intimidation and Harassment of Human Rights Defenders’ (n 381).

<sup>408</sup> Bersih 2.0, ‘BERSIH 2.0: PM Najib Razak Must Intervene for Stadium Merdeka’ (*Bersih 2.0*, 7 July 2011) <<https://www.bersih.org/bersih-2-0-pm-najib-razak-must-intervene-for-stadium-merdeka/>> accessed 30 July 2017.

<sup>409</sup> Bersih 2.0, ‘BERSIH 2.0: Special Decree of Duli Yang Maha Mulia Seri Paduka Baginda Yang DiPertuan Agong’ (*Bersih 2.0*, 4 July 2011) <<https://www.bersih.org/kenyataan-rasmi-titah-khas-duli-yang-maha-mulia-seri-paduka-baginda-yang-dipertuan-agong/>> accessed 30 July 2017.

<sup>410</sup> Bersih 2.0, ‘(Eng/BM) Memorandum to SPB Yang Di-Pertuan Agong’ (*Bersih 2.0*, 13 July 2011) <<https://www.bersih.org/engbm-memorandum-to-spb-yang-di-pertuan-agong/>> accessed 30 July 2017.

Surrounding Bersih 2 as a single event, this researcher noticed that at various points communications with state authorities concerned the right to freedom of peaceful assembly as much as the right to vote.

### **Communication with regional and international human rights bodies, and / or foreign governments**

In this area, Bersih 2 proved to be more proactive and received more attention on the international level than Self-Nomination.

#### Self-Nomination

Self-nominated Do Nguyen Mai Khoi was the only activist who was observed to have met with foreign government representatives to gather support for advocacy for electoral reform as well as civil and political rights in Viet Nam. Khoi requested and eventually managed to meet with Barack Obama, together with a few other local civil society representatives, during his one and only visit to Viet Nam as a US President before his term in office ended.

According to Khoi's article published on BBC Vietnamese, during the meeting, she voiced up about issues related to civil and political rights in the country, in particular freedom of expression, freedom of peaceful assembly, free movement, freedom to perform for artists, release of prisoners of conscience, and amending the Penal Code and the Election Law.<sup>411</sup>

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<sup>411</sup> Mai Khôi, 'Giá Trị Của Cuộc Gặp Tổng Thống Obama [Value of the Meeting with President Obama]' *BBC Vietnamese* (19 July 2016) <[http://www.bbc.com/vietnamese/forum/2016/07/160718\\_mai\\_khoi\\_cuocgap\\_obama](http://www.bbc.com/vietnamese/forum/2016/07/160718_mai_khoi_cuocgap_obama)> accessed 30 July 2017.

Other than Khoi's attempt, no other communication with regional and international human rights bodies or representatives of foreign governments by other self-nominated candidates was observed.

## Bersih 2

Bersih 2's contact with regional and international human rights bodies was generated by both the organizers themselves, their allies and those bodies' own initiative, or at least on the official level.

As mentioned in a previous section, some of Bersih 2's NGO allies wrote to AIHCR to ask this regional human rights body to take action regarding harassment against Bersih 2's activists.<sup>412</sup> This showed that the NGO allies within the country as well in Southeast Asia attempted to make use of a regional human rights mechanism, although its presence was limited and its impact questionable.

On the international level, Amnesty International asked the US "not to be a spectator" but to urge the Malaysian government to guarantee the right to peaceful protest in the future.<sup>413</sup> Amnesty International also urged David Cameron, the then UK Prime Minister, to raise the issue of unwarranted arrests and use of excessive force by Malaysian security forces against Bersih 2 protesters in his upcoming meeting with Najib Rajak.<sup>414</sup>

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<sup>412</sup> Bersih 2.0, 'Open Letter to the Chairperson of AICHR Regarding the Threats and Intimidation by the Malaysian Government against the Electoral Reform Mass Rally Supporters' (n 334).

<sup>413</sup> Amnesty International, 'Malaysia: US Urged Not Be a Spectator (Amnesty International)' (*Bersih 2.0*, 11 July 2011) <<https://www.bersih.org/malaysia-us-urged-not-be-a-spectator-amnesty-international/>> accessed 30 July 2017.

<sup>414</sup> BBC, 'US Concern at Malaysia Crackdown on Protests' *BBC News* (14 July 2011) <<http://www.bbc.com/news/world-asia-pacific-14149828>> accessed 30 July 2017.

On the other hand, Bersih 2 received some attention at the UN level regarding the restriction of freedom of expression and peaceful assembly. OHCHR expressed concern about the issue and called for the release of all those who had been detained.<sup>415</sup> A group of UN experts also expressed their dismay at the use of tear gas and water cannons by the police against protesters during the event.<sup>416</sup> The US government responded to the situation by expressing their concerns, saying that they would “monitor the situation closely.”<sup>417</sup>

### 3.3 Outcomes

The outcomes of the two movements were assessed based on the three categories of consequences mentioned in the methodology section, namely (1) policy response or political decisions by those having decision making power, (2) political structure, and (3) power relations between the government and its population.

The observed outcomes turned out to be mostly unintended, i.e. outside the scope of the goals set by the activists.

For the case of Bersih 2, the outcomes were more complex, ranging from negative, to ambiguous, and humble positive. For the case of Self-Nomination, no positive outcome in terms of policy change was observed; yet on the other hand, other than harassment against

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<sup>415</sup> UN News Centre, ‘Malaysia: UN Rights Office Concerned at Reported Crackdown ahead of Planned Protests’ (*UN News Centre*, 5 July 2011)

<<http://www.un.org/apps/news/story.asp?NewsID=38935#.WX2yAoiGPIU>> accessed 30 July 2017.

<sup>416</sup> Office of the High Commissioner for Human Rights (OHCHR), ‘Malaysia: Government Risks Undermining Democratic Progress, Say UN Experts’ (*OHCHR Website*, 2011)

<<http://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11225&LangID=E>>

accessed 30 July 2017; UN News Centre, ‘UN Human Rights Expert Criticizes “heavy-Handed” Police Methods in Malaysia’ (*UN News Centre*, 11 July 2011)

<<http://www.un.org/apps/news/story.asp?NewsID=38999#.WX2yrYiGPIU>> accessed 30 July 2017.

<sup>417</sup> BBC, ‘US Concern at Malaysia Crackdown on Protests’ (n 414).

self-nominated candidates and their supporters, no serious negative response on the part of the government, such as legal attacks against these people, has been recorded.

### Self-Nomination

In terms of policy change, legislation or political structure, no response on the part of the government was observed regarding electoral processes and voting rights or other civil liberties.

Out of 162 people who nominated themselves, only 11 made it on to the ballots, compared to almost 900 nominated by the central or local authorities.<sup>418</sup> Out of these 11 people, only two were elected to the 14<sup>th</sup> National Assembly, two people fewer than the 13<sup>th</sup> term.<sup>419</sup>

So far, other than allegations of harassment against self-nominated candidates and their supporters, no legal attack has been recorded so far.

### Bersih 2

#### *Positive or ambiguous outcomes*

In the aftermath of Bersih 2, a positive move happened on the part of the Malaysian government. A Parliamentary Select Committee was established in 2012 to look into electoral reforms in the country. The Committee later issued some recommendations, many of which were Bersih 2.0's demands.<sup>420</sup> However, the changes were criticized for being too modest,

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<sup>418</sup> Lewis (n 393); Tuoi Tre News, 'How Vietnam's National Elections Run' *Tuoi Tre News* (21 May 2016) <<http://tuoitrenews.vn/politics/34918/how-vietnams-national-elections-runs>> accessed 30 July 2017.

<sup>419</sup> Vinh An (n 81).

<sup>420</sup> 'Report of Special Select Committee on Electoral Reforms'.

and the EC's capacity to implement these recommendations was subject to skepticism by Bersih 2 organizers and supporters.<sup>421</sup>

Another incident which followed Bersih 2 and can be considered an indirect and unintended positive, yet modest, outcome was the result of the 2013 General Elections in the country. It was the first time an opposition coalition won more popular vote than Barisan Nasional, the ruling coalition (51% for Pakatan Rakyat, an informal opposition coalition, versus 46.5% for Barisan Nasional).<sup>422</sup>

### *Negative outcomes*

Negative events that followed Bersih 2 unfortunately outweighed the humble positive outcomes.

Regarding the electoral system, various corrupt practices condemned by Bersih 2 remained. For example, to win votes of key voting blocs for the 2013 General Elections, the BN government gave cash handouts to lower-income households during 2012.<sup>423</sup> Other alleged irregularities and issues leading up to the elections included phantom voting, gerrymandering,

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<sup>421</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2013' (n 129); O'Shannassy (n 380); Sandra Smeltzer and Daniel J Paré, 'Challenging Electoral Authoritarianism in Malaysia: The Embodied Politics of the Bersih Movement' (2015) 7 *Interface: a journal for and about social movements* 120; Bersih 2.0, 'Response From Bersih 2.0 To The Recommendations Of The Parliamentary Select Committee on Electoral Reform' (*Bersih 2.0*, 3 April 2012) <<https://www.bersih.org/response-from-bersih-2-0-to-the-recommendations-of-the-parliamentary-select-committee-on-electoral-reform/>> accessed 30 July 2017; Bridget Welsh, 'Malaysia's Elections: A Step Backward' (2013) 24 *Journal of Democracy* 136.

<sup>422</sup> The Economist, 'A Tawdry Victory' *The Economist* (Kuala Lumpur, 6 May 2013) <<https://www.economist.com/blogs/banyan/2013/05/malaysias-election-0>>; The Economist, 'A Dangerous Result' *The Economist* (Kuala Lumpur, 11 May 2013) <<https://www.economist.com/news/leaders/21577390-after-tainted-election-victory-najib-razak-needs-show-his-reformist-mettle-dangerous>>.

<sup>423</sup> The Economist, 'A Tawdry Victory' (n 422); Freedom House, 'Malaysia (Country Report) - Freedom in the World 2013' (n 129).

power outages in vote-tallying centers where opposition parties hoped to win, and unequal access to the media faced by opposition parties.<sup>424</sup>

The passing of the Peaceful Assembly Act at the end of 2011, the same year in which Bersih 2 took place, was a major negative move by the government to further restrict freedom of assembly in the country.<sup>425</sup> In particular, the law prohibits street protests and requires excessive fines for noncompliance with the rule.<sup>426</sup> Indeed, the first time when the Act was used turned out to be in April 2012 against Bersih 3, the following rally organized by Bersih 2.0 after Bersih 2.<sup>427</sup> Bersih 3's organizers faced criminal charges and a government suit seeking 122,000 Malaysian ringgit (\$40,000) in damages.<sup>428</sup> Later, in 2015, two Bersih 2.0 leaders and two opposition lawmakers were charged with violating the Act.<sup>429</sup>

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Looking into these outcomes in relation with the external and internal factors discussed in the previous sections, I came up with the following observations.

Firstly, how the movements developed and ended up were the consequences of the interactions between external and internal factors. For the case of Bersih 2, while the country had some democratic mechanisms in place, at least compared to Viet Nam (although Malaysia's political environment was still quite restricted), its people had more exposure to and experience of social movements than those in Viet Nam, and the movement received

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<sup>424</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2014' (n 129).

<sup>425</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2012' (n 129); UN News Centre, 'Malaysia: UN Experts Warn New Bill Restricts Right to Peaceful Assembly' (*UN News Centre*, 7 December 2011) <<http://www.un.org/apps/news/story.asp?NewsID=40647#.WX25MIiGPIU>> accessed 30 July 2017.

<sup>426</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2013' (n 129).

<sup>427</sup> *ibid.*

<sup>428</sup> *ibid.*

<sup>429</sup> Freedom House, 'Malaysia (Country Report) - Freedom in the World 2016' (n 129).

more public support and participation as well as had more resources than Self-Nomination, the main strategy adopted by the movement could be considered moderate, considering that its people had experienced movements with similar strategies in the past. The movement ended up achieving some positive, yet modest, results, as seen in the response of the government and voters. The clearly stated goals which targeted specific problems of the electoral system were also reflected in the response of the government, through the recommendations by the Parliamentary Select Committee. However, the generally restricted political environment seemed not to be changed much, as the electoral system had hardly changed, and the government even introduced new repressive measures to crack down on future democracy movements. For the case of Self-Nomination, its activists operated in less favourable conditions of external factors, including very limited civil liberties, a single-party authoritarian regime, relatively little exposure and experience of social movements among the public, and had limited resources and received modest participation. Nevertheless, the key strategy chosen by the activists was unprecedented and therefore can be considered radical given the political contexts of the country. While no positive structural change happened to the electoral system, other than the usual harassment against the activists and their supporters, no legal attack against these people has been observed either. On a positive note, this can be seen as a humble positive change in the power relation between the people and their government.

Secondly, while the development of the movements' internal factors (namely framing processes, and mobilizing and organizing structures) was related to external factors, the movements eventually developed their own dynamics rather than purely reflecting external factors. For Self-Nomination, although the domestic external factors were highly unfavourable, the activists pushed the boundaries and came up with an unprecedented

strategy to challenge the system, with various side campaigns initiated by different groups, and made a good use of the Internet and social media, one of the very few resources available to them, in their fight. For Bersih 2, despite numerous restrictive measures and being rendered illegal by the government, the organizers still went ahead with the planned rally and the turnout at the event was impressive.

## **CHAPTER 4. CONCLUSION, FURTHER DISCUSSION AND RECOMMENDATIONS**

### **4.1 Conclusion**

This research was aimed at answering the following two questions concerning the two case studies: (1) how voting rights activists, through social movements, challenged national electoral systems, in particular how the movements developed; and (2) which factors influenced the development and outcomes of the movements.

Regarding the first question, the study found that Bersih 2 had more specific and clearly stated goals, and referred more to international human rights standards in its texts than Self-Nomination. In terms of organizing structures, Self-Nomination was characterized by a decentralized structure, with various side campaigns and no clear sign of a group of core organizers, and was mostly run by domestic forces, while Bersih 2 had a formalized leadership and received support both from within and outside Malaysia, including the diaspora and international human rights bodies. In terms of strategies and tactics, both movements took the same approach: having a main strategy, and at the same time a set of communicative strategies targeting different stakeholders and / or side campaigns to support the main one. The communicative strategies were more or less similar between the two cases, with some differences in tactic repertoire or to cater to specific purposes, situations and domestic political contexts. The common strategies included monitoring and documenting corrupt practices regarding electoral processes and harassment against organizers and participants; reaching out to the public; and communicating with domestic and / or international media, government authorities, regional and international human rights bodies, and / or foreign governments.

Regarding the second question, some external factors, including both domestic and global ones, were found to have contributed to shaping the development and outcomes of the movements. Domestic factors included institutionalized political systems and socio-political environment, and any relevant events that preceded the movements; and the public's experience of social movements and views on democracy. Global factors included the development and accessibility of the Internet, new technology and social media; the existence of international and regional human rights systems; and the shrinking space for civil society as a global trend. Relevant internal factors included framing processes, which involved the setting of goals and activists' discourses; and mobilization strategies and structures, which involved organizational structure, resources, public participation and support, and strategies, tactics and actions adopted by activists.

In addition to finding the answers to the research questions, this researcher observed two patterns about the two case studies. Firstly, how the movements developed and ended up were the consequences of the interactions between external and internal factors. Secondly, while the development of the movements' internal factors was related to external factors, the movements eventually developed their own dynamics rather than purely reflecting external factors.

## **4.2 Limitations and suggestions for future research**

The current study has two major limitations. First, as mentioned in a previous section on research methodology, since both of the movements in question only happened recently, the assessment of their outcomes was limited by a short time-frame. This issue restricted this researcher from examining any possible consequences of the movements in the more distant future in order to have a complete picture. Second, this researcher did not have access to

other important sources of primary data such as interviews with participants and organizers and real-time field data, and therefore might have missed the opportunity to look into insiders' insights and to observe the happenings of the movements directly.

Future research might be able to overcome these limitations by monitoring events in a longer time-frame, and reaching out to participants and organizers for more perspectives. Future studies might also look into other types of outcomes such as any change in public views about matters related to the cause of the movements, or any legacies for other movements in the future.

### **4.3 Practical recommendations for stakeholders**

Based on the findings of this study, this researcher proposes the following recommendations for different stakeholders with an aim to enhance the influence of social movements which focus on human rights, especially civil and political rights.

#### **4.3.1 For civil society in general**

Organizers of social movements are recommended to enhance participation and cooperation between different social groups<sup>430</sup> cross-ethnicity, -geographical areas or -socioeconomic classes. This would largely improve public participation and support, an important internal factor, and also democratize and equalize the operation process, which is especially important for democracy movements. As Tilly argued, if this is achieved, social movements can contribute to the democratization process.<sup>431</sup>

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<sup>430</sup> Andrew Wells-Dang, 'The Political Influence of Civil Society in Vietnam' in Jonathan D London, *Politics in Contemporary Vietnam: Party, State, and Authority Relations* (Palgrave Macmillan 2014).

<sup>431</sup> Tilly (n 4).

There should also be a balance between having a core group of organizers and decentralization, as each model has its own advantages. While having a core group of organizers can help movements have clearer goals and strategic plans of actions set, as the movements develop and increase in scale, decentralization in terms of implementation of plans, taking initiatives and even making decisions is crucial.

Activists should also carefully assess relevant external factors and socio-political contexts, both domestic, regional and global, in which they are operating in to fully understand their limitations and advantages, and plan their strategies and actions accordingly. Strategies should be planned for different scenarios, with varying degrees of radicality.

The final recommendation for pro-democracy civil society based on this study is that they should make better use of international human rights networks, including international human rights instruments, NGOs and fellow activists in their regions as well as other parts of the world.

#### **4.3.2 For governments in general, including those of the two countries in question**

To enable social movements to contribute to social changes and democratization in particular, “visionary leadership” and decisions by government leaders are crucial, as highlighted by Wells-Dang.<sup>432</sup> As highlighted in this study, political systems and socio-political environment are important external factors that influence a movement’s success or failure. Therefore, instead of responding with violence and repressive legislations, governments should provide

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<sup>432</sup> Wells-Dang (n 430) 181.

social movements, and civil society in general, with favourable conditions to act for their cause.

### **4.3.3 For international human rights bodies and international human rights NGOs**

International human rights bodies, i.e. those at UN and regional levels, and international human rights NGOs should proactively reach out to support human rights activists operating in less favourable conditions, in particular under authoritarian regimes, in areas such as capacity building, financial resources and networks to bolster their potentials.

These international actors should also continue to push for the protection and promotion of civil liberties, in particular freedom of peaceful assembly and association and freedom of expression at the international, regional and domestic levels, to strengthen the influence of civil society.<sup>433</sup>

### **4.3.4 For funders of civil society**

As social movements face more challenges in an era of shrinking space for civil society support, important suggestions from Carothers and Brechenmacher for funders include gaining deep understanding of the problem and exploring innovative aid methods such as support for protective technologies.<sup>434</sup>

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<sup>433</sup> Carothers and Brechenmacher (n 2).

<sup>434</sup> *ibid* x.

## APPENDIX

### Relevant provisions of the 2013 Constitution of the Socialist Republic of Viet Nam

#### Article 9

1. The Vietnam Fatherland Front is a political alliance and a voluntary union of political organisations, socio-political organisations, social organisations and individuals representing their social classes and strata, ethnicities, religions, and overseas Vietnamese.

The Vietnam Fatherland Front constitutes the political base of the people's government; represents and protects legal and legitimate rights and interests of the People; gathers and promotes the power of great national solidarity, practices democracy and enhances social consensus; practices social supervision and criticism; participates in the building of the Party, the State and people's activities of foreign relations, contributing to building and defending the Fatherland.

2. The Vietnam Trade Union, the Vietnam Peasant Society, the Ho Chi Minh Communist Youth Union, the Vietnam Women's Society and the Vietnam Veteran Society are socio-political organisations established on a voluntary basis that represent and protect the legal and legitimate rights and interests of their members; cooperate with others members of the Fatherland Front and unify the activities of the Fatherland Front.

3. The Vietnam Fatherland Front, its member organisations and other social organisations operate in accordance with the framework of the Constitution and the law. The State provides

favourable conditions for the activities of the Vietnam Fatherland Front, its member organisations and other social organisations.<sup>435</sup>

### **Article 70.**

The National Assembly has the following duties and powers:

1. To draw up and amend the Constitution; to make and amend laws;
  
2. To exercise supreme control over conformity to the Constitution, the law and the resolutions of the National Assembly; to examine the reports of the State President, the Standing Committee of the National Assembly, the Government, the Supreme People's Court, the Supreme People's Procuracy, the National Commission of Election, the State Audit and other bodies created by the National Assembly;
  
3. To decide on the major objectives, targets, policies and duties of national socio-economic development.
  
4. To decide on the fundamental national financial and monetary policies; to set, change, or abolish taxes; to decide on the separation of items of incomes and expenditure between central budget and local budgets; to decide on the safety limit of national debts, public debts, and government debts; to decide on planning of the State budget and allocation of the central State budget; to approve the accounts of the State budget.

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<sup>435</sup> Hiến Pháp Nước Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam [The Constitution of the Socialist Republic of Viet Nam] (n 93) (Unofficial translation from Vietnamese by IDEA - International Institute for Democracy and Electoral Assistance).

5. To decide on the State's policies on ethnic minorities and religions;
6. To regulate the organisation and operation of the National Assembly, the State President, the Government, the People's Courts, the People's Procuracy, the National Council of Election, the State Audit, local administrations, and other bodies created by the National Assembly.
7. To elect, suspend and revoke the State President and Vice-President, the Chairman of the National Assembly, the Vice-Chairmen of the National Assembly, members of the Standing Committees of the National Assembly, Chairman of the Ethnic Council, Chairmen of the Committees of the National Assembly, the Prime Minister, the Chief Justice of the Supreme People's Court, the Head of the Supreme People's Procuracy, the President of the National Council of Election, the Head of the State Audit, and the heads of other bodies created by the National Assembly; to sanction the recommendations of appointment, suspension and revocation of the Deputy Prime Minister, Ministers and other members of the Government, Judges of the People's Supreme Court; sanction the list of members of the Defence and Security Council and of the National Council of Election.

Upon election, the State President, the Chairman of the National Assembly, the Prime Minister, and the President of the Supreme People's Court must declare an oath of allegiance to the Fatherland, the People and the Constitution;

8. To cast a vote of confidence on persons holding positions elected or approved by the National Assembly;

9. To set up or dissolve government ministries and other agencies at the same level; to establish, merge, divide or adjust the boundaries of provinces and cities under direct central rule; to set up or disband special administrative economic units; to set up or disband other bodies in concordance with the Constitution and the law;

10. To abrogate all formal written documents issued by the State President, the Standing Committee of the National Assembly, the Government, the Prime Minister, the Supreme People's Court, and the Supreme People's Procuracy that are inconsistent with the Constitution, laws and resolutions taken by the National Assembly;

11. To grant amnesty;

12. To determine titles and ranks in the people's armed forces, in the diplomatic service and other State titles and ranks; to institute medals, badges and State honours and distinctions;

13. To decide issues of war and peace; to proclaim a state of emergency and other special measures aimed at ensuring national defence and security;

14. To decide on fundamental policies in external relations; to ratify or nullify international treaties with respect to war and peace; national sovereignty; membership of the Socialist Republic of Vietnam in important international and regional organisations; international treaties on human rights, citizens' fundamental rights and duties and other international treaties inconsistent with the laws and resolutions taken by the National Assembly;

15. To hold a referendum.<sup>436</sup>

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<sup>436</sup> Hiến Pháp Nước Cộng Hòa Xã Hội Chủ Nghĩa Việt Nam [The Constitution of the Socialist Republic of Viet Nam] (n 93) art. 69-70.

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