

Dato' Sri Najib Tun Razak
Prime Minister of Malaysia
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8 May 2013

Dear Mr. Prime Minister,

Re: Post-Elections Rally by Opposition Must Be Allowed to Proceed Peacefully

The Asian Forum for Human Rights and Development (FORUM-ASIA), a Bangkok-based regional human rights group representing 47 organizations in 16 countries across Asia, writes to you to express our concern over the warning by the Inspector-General of Police, Ismail Omar, that participants of the planned rally by the Opposition tonight (8 May 2013) would be arrested. We urge your newly-elected government to allow this rally, held to voice dissatisfaction over claims of electoral irregularities, to proceed peacefully.

Mr. Prime Minister, we firstly would like to point out that the Inspector-General of Police's reported assertion that tonight's planned rally is "illegal" – apparently because it is "without permit" – is an erroneous one. Nowhere in the Peaceful Assembly Act 2012 requires organizers of assemblies to obtain *permits*. Furthermore, the 10-day *notification* requirement under the law shall not apply for tonight's rally, planned to be held in a stadium, as Section 9(2) of the Act exempts notification requirement for assemblies held in "designated place of assembly".¹

We are also concerned about your government's track record in handling public assemblies. We recall the harsh crackdown on several peaceful assemblies in recent years, including the excessive use of force by the police at the BERSIH-organized rally on 28 April 2012 – an allegation which has been confirmed by the Human Rights Commission of Malaysia (SUHAKAM).

We are, however, well aware that some other subsequent rallies, including the "People's Uprising Rally", held on 12 January 2013 – the first mass rally organized after the passage of the new Peaceful Assembly Act 2012 – proceeded without similar excessive use of force, albeit under various restrictions. The "People's Uprising Rally" in January 2013 is an example of the fact that mass rallies can indeed remain peaceful without heavy-handed interventions by the authorities.

Mr. Prime Minister, as Malaysia is a member of the UN Human Rights Council, you must be aware that the UN Special Rapporteur on the right to freedom of peaceful assembly and of association, Mr. Maina Kiai, has in both his previous² and upcoming reports³ to the UN Human Rights Council expressed his concern over the restrictions on the right to freedom of peaceful assembly in Malaysia. Any attempts to stop tonight's rally would only serve to heighten international criticism of Malaysia in this regard.

You must also be well aware that the international community is keenly watching the current developments in Malaysia, and any attempts to quash the rally, including by arrests and heavy-handed police interventions, would seriously jeopardize your newly-elected government's international legitimacy and credentials. As a self-proclaimed democratic government – and a UN Human Rights Council member no less – your

¹ [http://www.federalgazette.agc.gov.my/outputaktap/20120209_736_BI_JW001759%20Act%20736%20\(BI\).pdf](http://www.federalgazette.agc.gov.my/outputaktap/20120209_736_BI_JW001759%20Act%20736%20(BI).pdf)

² http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf

³ http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A.HRC.23.39_EN.pdf

government must firstly allow peaceful dissent in all forms beyond the holding of elections, including through peaceful public assemblies. The manner in which tonight's rally is dealt with will be the first test of your newly-elected government's democratic credentials.

We thank you for your kind attention. For inquiries, please contact John Liu at +66802828610 or johnliu@forum-asia.org; or Sayeed Ahmad at +66842176150 or sayeed@forum-asia.org.

Yours truly,



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CC:

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