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Index: ASA 28/002/2011

July 4, 2011

Prime Minister Dato' Sri Mohammed Najib bin Tun Abdul Razak
Office of the Prime Minister
Main Block, Perdana Putra Building
Federal Government Administrative Centre
62502 Putrajaya, MALAYSIA

Via facsimile: +60-3-8888-3444

Re: Human Rights Violations against Bersih 2.0

Dear Prime Minister Najib,

We write to raise our very serious concerns about the escalating harassment, intimidation, and crackdown by your government against the leaders and supporters of the Coalition for Clean and Fair Elections (Bersih).

UN General Assembly resolution A/RES/60/251 states that members of the Human Rights Council shall “uphold the highest standards in the promotion and protection of human rights.” Malaysia’s image and standing as a member of the UN Human Rights Council is being severely tarnished when instead of responding substantively to the detailed proposals for electoral reforms made by Bersih, you and your government have unleashed a barrage of arbitrary arrests of Bersih’s leaders and supporters in violation of their fundamental rights to freedom of association, expression, and peaceful assembly. Malaysia should immediately release all those being arbitrarily detained under the

Emergency (Public Order and Prevention of Crime) Ordinance of 1969, the Sedition Act of 1948, article 122 of the penal code, and other laws for peaceful Bersih-related activities; rescind the decision to declare Bersih an illegal organization and stop arresting peaceful political activists promoting Bersih 2.0; and allow the march of Bersih 2.0 planned in Kuala Lumpur on July 9, 2011 to proceed.

Suara Rakyat Malaysia (SUARAM) and other organizations on the ground in Malaysia have documented that police have arrested or summoned at least 150 persons for investigation on politically motivated charges.

Most serious is your government's use of preventive detention in violation of fundamental due process rights under the Emergency Ordinance (EO) on July 2 to hold six Socialist Party of Malaysia (PSM) leaders, including Sungai Siput MP Michael Jeyakumar Devaraj, PSM deputy chairperson M. Saraswathy, central committee members Choo Chon Kai and M. Sukumaran, Sungai Siput branch secretary A. Letchumanan, and PSM Youth leader Sarat Babu. We call on you to order the Home Minister to immediately rescind his arrest order under the EO and free the six PSM leaders, and urge you to publicly commit that the EO, the Internal Security Act (ISA,) and other preventive detention laws will not be used again against Bersih leaders and supporters in the lead-up to the July 9 march.

We are also extremely concerned by your government's action to charge the above-mentioned 6 PSM leaders and another 24 PSM activists (who were pulled off a bus heading to Penang) for offenses under penal code article 122 ("waging war against the king"), the Sedition Act, and the Police Act of 1967. The authorities were acting in violation of basic rights to freedom of expression and freedom of association when they arrested peaceful members of a political party for possessing t-shirts and campaign pamphlets simply because the government does not approve of their content. This action is contrary to article 19 of the Universal Declaration of Human Rights (UDHR) which provides that "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media." Accordingly, we call on your government to immediately release all of these activists still in custody and drop these charges against them.

Similarly, the police should be ordered to end their wave of harassment and arrests against Bersih activists who are peacefully promoting the July 9 march by making presentations or speeches, distributing pamphlets or other literature, wearing garments associated with Bersih, and other similar actions. Article 20 (1) of the UDHR states that "Everyone has the right to freedom of peaceful assembly and association." Your government should immediately release any such activists it is holding for promoting Bersih, and drop all charges against them that violate their right to freedom of expression and association. The police should also return confiscated office machines and campaign materials belonging to Bersih, including laptops, t-shirts, leaflets, and banners, that

were seized during the police raid on June 29 at the EMPOWER office, which was functioning as the secretariat of Bersih.

Bersih was established for the purpose of promoting reform of Malaysia's electoral laws, regulations, and procedures. As a coalition of over 60 NGOs, it has made comprehensive proposals that deserve the consideration of your government and the Election Commission. The Bersih leaders and supporters have pursued their rights to participation in their government, as provided by article 21(1) of the UDHR, which states "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives." For this reason, your government is violating the right to freedom of association by designating Bersih as an "illegal organization" under section 5 of the Societies Act of 1966. Your government has failed to provide any credible evidence to substantiate the Registrar of Societies' claims that Bersih is trying to topple the government, or is a risk to public order, safety, economy, and sovereignty.

Bersih's leaders have publicly pledged that the planned July 9 march will be peaceful. The Malaysian government should allow the march to proceed and clearly undertake not to unilaterally block, disrupt, or otherwise break up the march as long as it remains peaceful. Similarly, the planned marches by Perkasa and UMNO Youth should also be allowed under the same provisos and conditions that they are peaceful. We call on the authorities to confine their role to maintaining the peace by ensuring all three marches and rallies to be held on July 9 remain separate so that there are no incidents between marchers. The police should not be permitted to harass or arrest persons peacefully travelling to join and participate in those marches on July 9.

Finally, the government's use of draconian preventive detention laws is incompatible with your government's seat on the UN Human Rights Council. We note that when you became Malaysia's prime minister in April 2009, you pledged your "intention to uphold civil liberties" and expressed your "regard for the fundamental rights of the people of Malaysia." We call on you to turn these pledges into concrete action by ordering law enforcement officials to immediately cease use of all preventive detention laws, and by starting a time-bound process to repeal those laws. The Malaysian penal code and criminal justice system are fully capable of addressing situations of internal security, and should be allowed to do so without resorting to preventive detention, which results in long-term arbitrary detention without the right to a fair trial. Your government stepped back from tabling the Internal Security Act 1960 (ISA) for amendment by parliament in March 2010. We are concerned that amending the law is not an adequate remedy because the law's core premise runs contrary to international human rights standards. Rather, we urge your government to publicly push for immediate repeal of the ISA and the Emergency (Public Order and Prevention of Crime) Ordinance 1969 as recommended in 2003 and 2005 by Suhakam, the national Human Rights Commission of Malaysia and the Royal Commission to Enhance the Operation and Management of the Royal Malaysian Police respectively. Your government

should also repeal provisions allowing for preventive detention under the Emergency (Public Order and Prevention of Crime) Ordinance 1969, the Dangerous Drugs (Special Preventive Measures) Act 1985, and the Restricted Residency Act 1933, as called for by the UN Working Group on Arbitrary Detention in their report following their June 2010 mission to Malaysia.

We look forward to hearing from you.

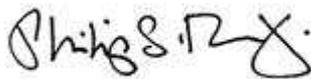
Sincerely,



Sam Zarifi
Asia-Pacific Director
Amnesty International



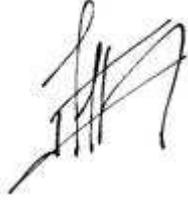
Yap Swee Seng
Executive Director
Asian Forum for Human Rights and Development



Phil Robertson
Deputy Director
Asia division
Human Rights Watch



Souhayr Belhassen
President
International Federation for Human Rights (FIDH)



Eric Sottas
Secretary General
World Organisation Against Torture (OMCT)

Cc:

Tan Sri Dato' Haji Muhyiddin Yassin, Deputy Prime Minister

Dato' Seri Hishammuddin bin Tun Hussein, Minister of Home Affairs

Dato' Seri Utama Dr. Rais Yatim, Minister of Information, Communications,
and Culture

Dato' Seri Mohamed Nazri bin Tan Sri Abdul Aziz, Minister, Office of the Prime
Minister

Tan Sri Ismail Omar, Inspector General, Royal Malaysian Police