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Hidden Counter-Revolution: A History of the Centralisation of Power in Malaysia

By Francis Hutchinson

Over the past thirty years, a “Silent Revolution” has taken place across the globe, as countries decentralize, devolve, or delegate power and responsibility from the national to the sub-national level.

In so empowering provincial, state, and local governments, citizens have benefited from policy innovations in areas such as public transport, e-tendering, and solid waste management. In addition to providing a closer connection between citizens and public servants, these empowered political entities provide more accessible and diverse settings for training tomorrow’s leaders. And by parcelling out power to different locations, it is prevented from coalescing into one location which can then be appropriated by powerful interest groups.

Yet, not only did Malaysia not take part in this movement – she stayed at home, locked the door, and burned the midnight oil plotting a counter-revolution. Unlike her neighbours in Asia and beyond, Malaysia has gone the other way, consistently centralizing revenue sources and responsibilities.

The irony is that many countries have had to construct – with considerable effort – entirely new layers of government in order to have something to delegate responsibility to. Uniquely for Southeast Asia, Malaysia began her nationhood with a federal structure, designed with input from nations such as India, Pakistan, and Australia. Yet, as will be argued below, this institutional ‘blessing’ has steadily been overlooked by successive governments in the drive to concentrate responsibilities and revenue sources at the apex of government.

THE 'NEW KID ON THE BLOCK'

While the perceptions of Malaysia's government focus on its federal civil service and the all-powerful Office of the Prime Minister, in reality its central government is the new kid on the block. It was established only in 1948 and sits atop a collection of smaller governments – including some that have been in existence for centuries. For example, one state, Penang, first levied taxes to fund public services in 1795. Another, Johor, had its own network of hospitals, schools, hospitals, and fire brigade as well as an 'embassy' in London as far back as the 1890s.

Actually, for most of its history, Malaysia's predecessor British Malaya existed as a group of distinct political entities. The British colonization of Malaya occurred in phases and took different forms at different points in time, giving rise to a variety of governance arrangements. The Straits Settlements of Penang, Malacca, and Singapore were established as trading outposts in the late 18th and early 19th centuries and governed as colonies. The Federated and Unfederated Malay States were incorporated into the British Empire in the late 19th and early 20th centuries, respectively. In the Malay States, the pre-existing structure of the Sultanates was maintained and British influence was exercised through a Resident or Adviser.¹ It was only following the Second World War that these various state and settlement governments, minus Singapore, were brought together into one collective entity.

And, it was at the state level that many of Malaysia's founding fathers earned their administrative experience. For example, Onn Jaafar, the founder of the country's largest political party, the United Malays National Organization (UMNO), was the Chief Minister of Johor. Tunku Abdul Rahman, the first Prime Minister, was a District Officer in Kedah. Tun Abdul Razak, the second Prime Minister, was the State Secretary of Pahang. And, Hussein Onn, the third Prime Minister, was a member of the Johor Military Force.² Indeed, it is only with Mahathir Mohamed, the fourth Prime Minister, that the country was led by someone with uniquely national-level political level experience.

Given this as a backdrop, it is curious why centralization has been so consistently pursued. The answer lies in the pre-independence negotiations regarding the shape of Malaya's government.

Three parties were involved in the discussions regarding the shape of Malaya's future government. They were: the nationalist elite, represented by the Alliance coalition; the British; and the Sultans. Both the nationalist elite – whose largest component member was UMNO – and the British wanted a strong central government to drive the country's modernization and stifle a communist insurgency. However, these two parties had to contend with history and ended up incorporating the country's Sultans and collection of existing governments to a greater degree than either side wanted.

Indeed, the UMNO leadership, while recognizing the Sultans as a symbol of Malay culture, sought to capitalize on their administrative experience and role as their 'protectors' to assume the mantle of leadership of the Malay community.³ In their negotiations with the British, the Alliance leaders were more focused on securing a robust judiciary than strong state governments. In their negotiations with the Sultans, on the other hand, they sought to limit the role of the rulers to ceremonial functions and decrease financial provisions for the states.⁴

In the end, the Alliance had to make concessions with regard to the Sultans and the scope and funding of state governments. The result of these negotiations was a structure that looked like a federation, but had a number of deep structural tensions.

MALAYSIA'S FEDERAL SYSTEM

At first blush, Malaysia's governance system does indeed have many of the features of a federation. First, it has a multi-levelled system of government comprising: a federal government and three federal territories; 13 state governments; and approximately 150 local authorities. Second, there are constitutionally-stipulated responsibilities for the centre and states, with separate lists for unique responsibilities as well as a concurrent list for shared responsibilities. Revenue sources are similarly specified. Third, elections are held periodically at the federal and state levels.

Yet, Malaysia's federal system is rather 'unbalanced'. First, responsibilities and revenue sources are strongly geared towards the centre. Thus, states are left with a limited set of tasks such as land management; agriculture and forestry; local government and services; and religion. In addition, they are dependent on limited and relatively inflexible revenue sources such as land and natural resources, as well as constitutionally-stipulated federal grants. In contrast, the federal government receives the lion's share of government revenue. Its share of total government revenue before inter-governmental transfers was an estimated 90.7% for 2006-2010, making Malaysia one of the most heavily centralized federations in fiscal terms in the world.⁵ Given their relative penury, state governments are increasingly reliant on transfers and loans from the federal government to remain solvent.

Second, the Constitution attributes an inordinate amount of power to the federal government. A number of Articles in the Constitution allow the federal government to override state-level policies in certain circumstances. In particular, if a state of emergency is declared, the central government can make laws at the state level and even amend state constitutions.⁶ In addition, there are no real safeguards to protect state rights from being further eroded through amendments to the Constitution which, by 2007, had been amended some 50 times.⁷ Furthermore, the Senate is no longer a guarantor of state rights. At independence, that body had a majority of representatives appointed by the states, but presently, however, a majority of the seats are named by the centre.⁸

Third, there is an important organizational overlap between the central and state governments. Many of the senior-most positions in state governments are filled by officers seconded from the federal government. While their salaries are usually paid by the state government during their secondment, their long-term career progression is decided by the federal government. This situation reaches an extreme in six state governments, whose state civil services have been absorbed by their federal counterparts. In these states, the highest positions of State Secretary, State Financial Officer, and State Director of Planning are occupied by seconded federal officials.⁹

THE 'COUNTER-REVOLUTION'

With the lion's share of responsibilities and revenue tasks lying with the federal government, revenue sources and responsibilities continue to gravitate upwards. This has been enabled by the structural imbalance between the two levels of government as well as the lack of constitutional safeguards.

These have been merely enabling factors though. The propelling force behind this centralization drive has been the coalition in power at the national level. The Alliance, and its successor, Barisan Nasional, have enjoyed an unbroken tenure since independence. And, within the coalition, the largest party, UMNO, has seen its influence increase over time. This has given the party ample time to pursue its goal of having a strong central government.

While UMNO's influence has permeated many of the country's institutions, particularly the bureaucracy, what has had the furthest-reaching implications for its federal system has been the party's increasing influence at the state level. While both levels of government theoretically have sovereign control over responsibilities that are uniquely attributed to them, party hierarchy linking central and state leaders means this line is blurred. Thus, national-level Barisan Nasional leaders approve the candidates of coalition members for state-level constituencies. And, with rare exceptions, Chief Ministers in Barisan Nasional-led states are UMNO party members. Where this is the case, UMNO can use party discipline to ensure that central directives are followed at the state level.¹⁰ This party hierarchy means that Chief Ministers from Barisan Nasional-led states are unable to block national-level policies that reduce state-level autonomy.

THE TACTICS

Consistently pursued during Barisan Nasional's tenure, this centralization drive has taken four different forms. They are, in broad terms: appropriation; altering incentives; privatization of public services; and organizational duplication. Their use has varied over time, shaped by changing national priorities and the specific responsibility or revenue source in question. A brief description of each follows¹¹:

Appropriation

The simplest tactic in the federal government's arsenal has been to simply move into areas of governance that were initially allocated to the states by the Constitution. Or, alternatively, federal supervisory entities are created and charged with 'overseeing' tasks under the remit of state governments. This tactic was used most frequently during the 1960s and 1970s.

For example, while local government is the prerogative of state governments, the National Council for Local Government was established through a constitutional amendment in 1960. Since then, state governments have needed to consult the Council regarding any proposed legislation dealing with local governments. The Council is comprised of one representative from each state and an equal number named by the centre. Thus, if all federal nominees vote in line with central interests, only one vote from a state government is needed to amend policy in line with federal aims.¹²

Similarly, the federal government has secured control over oil and gas resources, which arguably belong to state governments. In 1974, the federal government used the Petroleum Development Act to establish Petronas, the national petroleum corporation, and confer it with rights over oil and gas found in the country and its territorial waters. State governments, for their part, had to cede their claims to these resources found within their territories. In return, Petronas agreed to pay the relevant state five percent of the resource's value.¹³

Altering Incentives

The federal government has also sought to alter the incentive structures facing leaders and electorates at the state level. First used in the early 1990s, this tactic has been applied more frequently in recent years.

At one level, transfers from the federal to state governments have increasingly become loans, rather than grants, which can come with strings attached.¹⁴ Second, opposition-led states have been financially penalized. While transfers to state governments that are stipulated in the Constitution are followed, development spending – or rather investment by the federal government in large-ticket infrastructure items – has either been: reduced for those state governments run by the opposition; or disbursed through alternative channels. Thus, in the early 1990s, Sabah and Kelantan had their development budgets reduced when their governments were opposition-led, and Sabah's export of timber – a key staple of the state government's budget – was banned.¹⁵

Similarly, opposition-led states with petroleum resources have been denied their share of royalties. The state of Terengganu had its royalty payments withheld during the period 1999-2004, when it was ruled by the opposition. And, the state of Kelantan, which has been under opposition control since 1990, has had its proceeds from petroleum withheld since then.¹⁶

Privatization under Federal Oversight

Since the early 1980s, the federal government has promoted the privatization of publicly-owned assets. Many state governments, for their part, have enthusiastically followed suit, privatizing public services under their remit. Subsequently, these assets have been nationalized by federally-owned corporations or have been placed under the regulatory control of a federal agency.

This has been most visible in the areas of water provision, solid waste management, and sewerage, which have a number of structural similarities. First, existing legislation has been altered or amended to permit greater federal oversight or control of these utilities. Second, state governments under Barisan Nasional administrations have opted to privatize the provision of these services, often to nominees chosen by the federal government for extended periods of time – 30 years in the case of water provision, 28 years for sewerage, and 22 years for solid waste management. Third, the federal government then assumes ownership of these privatized assets through proxy companies – PAAB in the water sector and Indah Water Konsortium in the sewerage sector – or regulates them as in the case of the National Department of Solid Waste Management.

Organizational Duplication

The most recent tactic to be used is organizational duplication, which consists of the replication of state government responsibilities by federally-controlled agencies. This is most evident with the establishment of 'growth corridors', which are being promoted to foster economic activity outside of the Klang Valley. Placed under the responsibility of implementation agencies, these corridors are meant to focus on national key economic areas, and work to enable dynamic urban areas to effectively leverage resources from the surrounding hinterland.¹⁷ The implementation agencies focus on promotion, planning, and facilitation.

However, these corridors represent exceptionally large swathes of territory, which rather contradicts their rationale – that of leveraging on complementarities in a reduced area. Beyond this, these implementation agencies do not map well onto existing states, cutting up some and combining others. In addition, their remit duplicates that of state governments, yet does not reform the underlying legislation which is still controlled by federal, state, and local government agencies. As a result, these corridor implementation agencies constitute an intermediate layer of bureaucracy between the federal and state governments – and one that is not elective.

WHERE ARE WE NOW?

Thus, the Malaysian federal government has, over the past five decades, proceeded to undermine the effectiveness of its own federal system. Power and revenue sources have drifted upwards inexorably, as national-level policy has proceeded to stifle state governments under an overlapping layer of regulatory agencies, concessionary agreements, and implementing bodies.

That said, this trend, which seemed inexorable up until a little while ago, is now being resisted.

The 2008 General Elections and their results have reinvigorated Malaysia's federal system. First, an unprecedented five state governments fell to the Opposition. This included not just Kelantan and Penang, which both have a tradition of somewhat ornery independence, but also formerly 'mainstream' states such as Selangor, Kedah, and Perak. While Barisan Nasional subsequently regained control of Perak, this arguably did even more to highlight the importance of state-level politics.

Second, a claim to power, albeit at the head of rather modest state governments, has injected life into the national-level opposition, Pakatan Rakyat. Formerly condemned to the margins of business and administration, opposition party members now have access to top-level decision-making positions (and steady incomes). And, for the first time, they have the opportunity to learn the ropes, try out new ideas, and develop a track record – which can then be useful in other walks of life. Were Malaysia's political system to be unitary, it would be practically impossible for aspiring politicians outside the ruling coalition to have a chance to earn administrative experience.

Third, more diversity at the state level has led to more innovation as incoming administrations seek to make their mark. Recent initiatives emerging from state governments include: computerized tendering systems; cash transfers to senior citizens; state government-funded public transport; and support for small and medium enterprises. Over time, policy innovators will put pressure on their neighbouring states, as citizens and investors begin to compare performance and ask questions of their respective state governments.

Fourth, state-level politics has now gained in prestige. Up until recently, high-flyers were selected early on in their careers to go to the federal level. In contrast, state-level politics were but a stepping stone on the way to national office. In this hierarchy, Menteri Besar positions were considered above a Deputy Minister position, but considerably below a Ministerial one. This is now changing, and personalities at the apex of national politics such as Mustapha Mohamed and Khaled Noordin are being touted as the next Mentris Besar of Kelantan and Johor, respectively.

As a result, state-level politics are beginning to recover a life of their own, as a space where citizens of a particular state debate issues and challenges relevant to them. Due to the progressive blurring of national and state level issues, politicians are all too frequently seen simultaneously holding parliamentary and state legislative assembly seats. However, this could be changing. The Democratic Action Party – which controls the state government in Penang – is said to be considering a one-politician one-seat policy. If passed, this will provide a much-needed division between national and state issues.

Another factor that has contributed to a greater awareness of state-level issues has been the debate within opposition-led state governments about holding their elections separately. In recent times, federal and state elections, with the exception of Sarawak's, have been held concurrently. However, this is not obligatory and both Penang and Selangor have publicly raised the possibility of holding their elections on their own timing. Indeed, Sarawak's 2011 elections provided a unique opportunity for not just Sarawakians but all Malaysians to examine state-level issues such as land management, natural resource conservation, and local budgets at length.

Last, issues of land management have come to the fore. Unlike issues such as overseas investment, tourism, and industrial development, which are responsibilities that depend on both federal and state responsibilities, land management is one of the few issues that clearly is the preserve of state governments. In recent months, the establishment of the rare earths processing plant in Pahang as well as the creation of an oil and gas hub in Penggerang, Johor, have been hotly debated. In both cases, questions have been raised of the state government's involvement in these projects and the extent to which outside interests are privileged over those of local citizens.

This clearer separation between national and state-level issues has highlighted the extent to which the autonomy of state governments has been eroded. Thus, in recent times, the state governments of Penang, Selangor, and Perak have opted out of the privatization and federalization of solid waste management, choosing to retain responsibility for this service. Similarly, the Selangor state government has sought to regain control over its water sector, and Kelantan and Kedah have also stated that they will not accept federal involvement in their water sectors. These state governments may or may not be in a position to manage their water sectors effectively. However, what is important is that for the first time in decades, the role of state and federal governments is being debated.

CONCLUSION

The 13th General Election will be closely contested. While the national level outcome will have far-reaching importance, state-level dynamics will be no less significant. The 'new' governments of Penang, Selangor, and Kedah will be evaluated by their voters. Elsewhere, citizens will be comparing their state governments with these newcomers, asking themselves what their governments have done for them lately. More than ever before, state governments will be increasingly measured against their brethren. And, a new awareness of the importance of local-level issues has the potential to reconfigure political discourse.

Above and beyond the extent to which the various state governments are taken by the different coalitions, a key indicator of whether the political system is evolving is the extent to which citizens vote strategically – choosing one option for the national level and another for the local.

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