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## **Reform and Federalism Post GE14: More Power to the States?**

*By Najwa Abdullah*

### **SYNOPSIS**

*Besides the 1MDB scandal, the failure of the Barisan Nasional (BN) government to deliver equitable development to the different states has been one of the factors that led to its historic electoral defeat at the recent General Election (GE14). How far can the PH government reform the federal system?*

### **COMMENTARY**

SPEAKING IN Singapore in November 2018, Malaysia's Deputy Defence Minister Liew Chin Tong made a striking comment about the force behind the historic 14th General Election (GE14); it was not about whether it was a victory for the Mahathir-led Pakatan Harapan (PH) or the Najib-led Barisan Nasional (BN). What resonated clearly and consistently in the election was the sentiment rejecting the Najib administration. According to his view, the GE14 should be understood as a call to put an end to the Najib administration rather than an outright support for the PH.

While public opinion remains in favour of the PH government, the honeymoon period may not last much longer, given the political and economic challenges. The PH government knows it has to formulate and implement some reforms to sustain popular support or risk the opposition making gains.

### **Reform, Federalism and Supremacy of the Centre**

One area for policy reform is the implementation of federalism. Promise number 24 in the PH manifesto: "Revive the true spirit of federalism", which aims to restore autonomy and integrity of the states, the status of East Malaysia as equal partner, as well as administrative integrity, merits particular attention.

The supremacy of the federal government is enshrined in the Constitution of Malaysia, in which matters regarding taxation, finances, trade, external affairs, defence, and social affairs fall under federal responsibilities, whereas state power is limited to religious affairs, local customs, and resources.

Nevertheless, based on the Malaysia Agreement of 1963 (MA63), the states of Sabah and Sarawak (also Singapore before it left Malaysia in 1965) were accorded an equal status with Peninsular Malaysia in the Federation. This provides Sabah and Sarawak special rights and greater independence, such as exclusion from the Parliament's authority with regards to laws about land and local government, and entitlements to special annual grants and additional sources of revenue.

Given the dominance of BN, the federal governments over the years were able to sidestep constraints to the detriment of some of the states. First and foremost, the status of Sabah and Sarawak was seen as downgraded after they were classified in the same category as the other states in Peninsular Malaysia, based on the 1976 Constitutional Amendment during the Hussein Onn era.

### **Oil Royalty for States**

Another case in point is the petroleum royalty issue in Sabah, Sarawak, Kelantan, and Terengganu. The 1974 Petroleum Development Act (PDA 1974) limited the role of the four states to that of a contractor to Petronas, in which case they are entitled to 5% oil royalty. This has been a longstanding issue between the Federal Government and the four states.

Sabah and Sarawak, as the largest oil-producing states, have demanded an increase to at least 20% of oil royalty in the past several years. Meanwhile in Kelantan and Terengganu, the BN governments had been inconsistent with the royalty payment.

While it refused to give Kelantan the 5% royalty by arguing that the offshore oil production facilities were located beyond the state's maritime borders, it had granted it to Terengganu since 1978 albeit the oil productions were located 220 kilometres offshore. The issue of preferential treatment became more pertinent when Terengganu fell to PAS in 1999 and the oil royalty payment stopped in 2000.

### **Urban-rural Divide**

Since independence, the federal government has had a great influence on development at all levels. Although the development grants are available for every state, the federal government reserves the rights to specify and control the development projects.

Development issues became at times highly politicised in both BN and opposition-led states. Consequently, inequality remains evident in certain parts of Malaysia despite the impressive record of economic growth and poverty eradication over the years.

Many rural-based states remain behind in terms of infrastructure and quality of life. According to Malaysia's Department of Statistics in 2017, unemployment rate was the

highest in Sabah (5.6%), followed by Terengganu (4.5%), Kelantan (3.6%), Perlis (3.5%) and Sarawak (3%). Besides, in 2016 Kelantan and Kedah were also named the poorest states, of which GDP per capita were only RM12,812 and RM19,152 respectively, far below the national average of RM38,887.

In GE14, this issue, along with the oil royalty, apparently contributed to antipathy of the Kelantanese people towards Mahathir and Najib on the basis of financial discrimination and intentional under-development in the state. As a result, PH – which comprises the PAS splinter party Amanah as well as PKR, DAP and Bersatu — lost in every seat it contested in Kelantan while BN lost some of its state seats.

## **Future Trajectory**

In the race to win the GE 14, PH promised to deliver up to 20% oil royalty to Sabah, Sarawak, and other oil-producing states, as stated in its manifesto. In June 2018, at the National Finance Council Meeting, Mahathir reportedly said that the PH government would channel at least 5% oil royalty to Kelantan and Terengganu.

In October 2018, PH launched a special committee for the review of MA63, which seeks to restore Sabah and Sarawak's status as equal partners in Malaysia. Upon the launch, Liew Vui Keong, minister in the Prime Minister's Department and chairman of Warisan, stated that the issues of equitable wealth distribution and oil royalty would be included in the review. However, any attempt to amend the Constitution would require PH to have a two-thirds majority in Parliament.

A reform of federalism to make the distribution of income more equitable will go a long way to placate the states that have long called for the reforms. It may also help to strengthen political support for PH in these states, especially in Sabah and Sarawak. However, as we can see in reform processes in many countries, the implementation will be very tough, especially given that PH is a coalition of parties with differing priorities.

Expectations have risen in those states that will benefit from the reforms but at the same time, the federal government has many priorities to manage. For instance, on the oil royalty issue, given the PH government's struggle to reduce the federal debt, Sabah and Sarawak will likely need to wait longer for an increase in payment.

Moreover, the continued political volatility in federal politics and increasing pressure from the opposition following the anti-ICERD rally have not been helpful and a distraction to the reform agenda. Will these recent developments lead to a concrete outcome on the issue of federalism?

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