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*Malaysia's Changing Federal-State Relations*

## **The Sarawak Imbroglio: Constitutional Amendment Setback**

*By Piya Sukhani*

### **SYNOPSIS**

*Pakatan Harapan failed to secure two-thirds majority in Parliament for its constitutional amendment to restore Sabah and Sarawak's equal status in Malaysia. Why did Sarawak abstain from voting for this amendment? What might be the ramifications for the federal government?*

### **COMMENTARY**

IT HAS been almost a year since Pakatan Harapan (PH) made history with its victory at the 14th Malaysian general election (GE14) on 9 May 2018. As part of its election manifesto, PH pledged that one of its core priorities would be the restoration of Sabah and Sarawak's rights in accordance with the Malaysia Agreement 1963 (MA63).

This was to rectify the constitutional amendment of 1976 that had downgraded the status of Sabah and Sarawak from being equal partners with Malaya to become equivalent to the other states in the Federation of Malaysia. After 43 years, a Constitutional amendment on Article 1(2) that attempted to restore Sabah and Sarawak's status as equal partners was tabled in the Malaysian Parliament by PH on 9 April 2019.

### **Initial Optimism**

There was initial optimism that this amendment would pass and contribute to positive outcomes for the two states, including greater political and legal authority in administering the states, and a more equitable distribution of the revenues generated from the exploitation of the natural resources in East Malaysia.

However, the amendment was not passed after it failed to secure a two-thirds majority in Parliament, falling short of 10 votes. 138 voted for the amendment and 59 abstained: this included UMNO, PAS and Gabungan Parti Sarawak (GPS), the party leading the Sarawak state government.

It may seem counterintuitive that Sarawak, which has been robustly pushing for the re-establishment of its status as an equal partner in the Federation, abstained from voting in support for the amendment. Not surprisingly, tensions have increased between the Sarawak state government and the federal government. Both sides have begun blaming each other for the failure to pass the amendment.

Upon scrutiny there are several factors at play that explain this development:

### **Federal-State Dynamics**

Firstly, it is important to understand the dynamics between the state and PH. Following GE14, even though GPS situated itself as part of the Opposition, it declared that it would cooperate with the federal government, supporting it for the state's progress and development.

However, Abang Johari, Sarawak's Chief Minister, declared in March 2019 that "if their policies are bad for us, we will fight", and for the interest of the state and its people, it is best that Sarawak is "ruled by local leaders from local-based parties". Johari's remarks are telling.

According to a Sarawak Democratic Action Party (DAP) politician, the reality on the ground was quite different from GPS' claims of being friendly with the federal government. He noted that GPS had described the federal government as "toxic" for the welfare of Sarawakians.

### **Friction at the Grassroots**

At the grassroots level, there is also a clear rivalry between PH Sarawak and GPS, especially between DAP and GPS. From the perspective of PH Sarawak, the state government had contributed to the widening gap between the native people of Sarawak and Kuala Lumpur through an anti-federal rhetoric.

As part of this rhetoric, the DAP is demonised as a peninsular-based party that seeks to champion the progress of the Chinese community, while neglecting the rights and welfare of the natives. This politics of race proves to be especially challenging for Sarawak PH, as its chairman, Chieng Jen, serves as the Sarawak DAP chairman too.

GPS, with its power of incumbency, has a significant influence on the people. For instance, as the vast majority of Sarawakians live in rural areas, community leaders of these areas (*Penghulu and Ketua Rumah*) are required to be elected by the villagers and residents of the vicinity. Instead of being elected though, they are apparently 'selected' by the state government.

As a result, it is believed that these leaders will likely be supportive of the state

government. This system of control provides a platform for the state government to put forth its own narrative viz-a-viz the federal government.

Following the tabling of the amendment Bill, PH Sarawak issued a statement in which it blamed “political differences” for GPS’ decision to abstain and called on GPS to “put aside their pride and ego”. Alluding to possible hidden political agendas, Chieng Jen also said in a statement: “You may have other interests in mind, your political or survival interests. But I think it’s important that the interests of the state should be made the first priority.”

### **‘Merely Cosmetic’ Amendment?**

GPS has come out to explain its decision. It argued that the amendment failed because it was unclear and did not accurately reflect the spirit of restoring the rights of Sarawak; it did not detail the enforcement of equal partnership in substance and form, including ensuring a third of parliamentary seats and a third of national resources.

GPS also argued that the amendment’s exclusion of a third of the annual fiscal allocation to Sarawak, considering that Sarawak was one of the biggest contributors to national revenue, demonstrated that the federal government ‘lacked sincerity’. Thus the stance of GPS remains that the amendments are not adequate and a more comprehensive Bill needs to be tabled to ensure equal partnership is reinstated effectively.

Chieng Jen has rebutted this saying that this was only the first step towards the process of power devolution, adding that “if GPS sincerely has the interest of Sarawak in mind, there is no reason to oppose”.

### **Political Uncertainties**

The failure to pass the amendment is a setback for the federal government. In addition to the time and political capital expended, the failure will also strengthen the perception among some Malaysians of an ineffective federal government. It does not help that the PH has also suffered setbacks in other areas – by-election losses and the backtracking on the Rome Statute on the International Criminal Court are some recent examples.

It is unclear whether the federal government would carry on with its efforts. President of Parti Keadilan Rakyat (PKR), Anwar Ibrahim said that “the government is in no rush to retable the Bill”.

On the other hand, GPS has called for the matter to be referred to a Parliamentary Select Committee so that the rights of the state can be thoroughly discussed, adding that “if we can wait for 43 years for the 1976 amendment to be rectified, why can’t we wait for another six months or one year until we have a complete package for the constitutional amendments?”.

Is the GPS being overly optimistic? It is key to note that the Sarawak state elections will be held before 7 September 2021. PH will try to win the state and GPS will do its

utmost to prevent that from happening. The failure to pass the amendment can perhaps be seen as the first victim of this tussle, and is likely not to be the last. As Malaysia gets closer to the state elections, PH will have to decide whether it wants to attempt again. It cannot simply forget Sabah too. If PH pushes for an amendment again, GPS will have to decide how to respond.

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