

## Federalism: “New Malaysia” and Hope for the State of Kelantan

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### Abstract

Malaysia consists of 13 states and three Federal Territories, practicing the concept of federalism in its governing system. The Federal Government of Malaysia was governed by only a single-party coalition known as Perikatan, later renamed Barisan Nasional (BN) in 1973. However, in the 14th General Election, which was held in May 2018, for the first time, the country's administration was replaced by another political coalition known as Pakatan Harapan (PH). The main objective of this article is to emphasize the future of the relationship between the Kelantan State Government and the Federal Government of Malaysia, especially post the 14<sup>th</sup> general election. The selection of Kelantan as the focus of this article is important because, in the context of Malaysian democracy, the state is the longest-running state under a different party administration from the Federal Government, which directly offers a certain perspective on the relationship between the Federal and State Governments. This article specifically referred to related documents covering articles, journals, writings, speeches, and references to any form of communication and observation of the commitments that have been made by the Kelantan State Government and the Federal Government of Malaysia.

**Keywords:** Policy; Federalism; Politic; Government

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### INTRODUCTION

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Malaysia is a country comprised of several states and regions. Federalism is the term used in political science to refer to this type of combination. The term has several connotations. Law (2010) found in his research that federalism is a kind of sovereign governance consisting of two equal-status levels of government. Burris (2015) defines federalism as a system of organization and power distribution between a central government and a smaller regional government. Federalism, in its simplest form, would include at least two levels of governance, with the state government at the bottom and the federal government at the top.

In the context of political systems, federalism can be understood as a form of voluntary agreement between sovereign states. The concept of agreement in this federalism system was also explained by Burris (2015), who also stated that the federalism system should be given a clear interpretation to distinguish it from the unitary government system in which all absolute decisions are made by the federal government.

Muller S. (2017) stated that federalism has two primary ideas of administration: self-rule and shared rule. Self-rule refers to the state's decision-making and execution authority. The shared rule refers to three approaches: i) involvement in decision-making; ii) collaboration among federation units; and iii) transfer of federal government functions to a lower-level government. To ensure that the federalism system continues to be relevant in the current administrative context, this system should be more progressive, especially in enhancing strategic cooperation among the components or parties within the system. Fuller (1997) stated that the need for a more strategic and fair new partnership between all parties under the framework of federalism is of paramount importance compared to the previous approach, which sometimes gave control to certain parties or factions.

Gibbins (2002) emphasized the need of the federal government fostering better collaboration with its connected organisations, such as state and municipal governments, in order to guarantee that the federalism system operates smoothly and effectively meets local requirements. This step will also guarantee that these affiliates understand and work with the federal government in accomplishing the objective. Burgess (2017) remarked on this problem from the perspective of power centralisation, noting that the federal idea can be centralised, centred, or non-centred depending on the circumstances. He made this view especially in reference to the United Kingdom's membership in the European Union (EU). Based on a study by Ahmed (2016), federalism is sometimes faced with challenges between the federal government and its affiliates, especially in having mutual consent on certain issues related to external relations, wealth distribution, financial management, and local socio-economic development.

Heinz (2018) noted that the notion of collaborative decision-making is inextricably linked to the study of federalism. It is a procedure for formulating policies and making choices on a variety of levels. Not only does the process of shared decision-making increase competency and concentrate the policy formation process, but it also ensures that the final policy can be fully utilized by all parties involved. In the context of administrative transparency, the concept of federalism does not guarantee transparency in the aspects of political domination. It may even contribute to the abuse of power arising from the policy of power distribution. This article attempts to highlight the issues faced by the Kelantan State Government as a state in the Federation of Malaysia. The Kelantan State Government is often seen as lagging in development when compared to other states

due to its long history as a State Government from a different party to the Federal Government.

## **RESEARCH METHODOLOGY**

This perspective article was developed qualitatively following a literature review of articles, journals, and references obtained either through mass media or electronically to elucidate the interaction between the State and Federal Governments. Information regarding the reviewed articles included in this work is presented in the updated introduction and some other subthemes.

## **FEDERAL SYSTEM IN MALAYSIA**

Malaysia is a federalist country. According to historical records, the fundamental principle of federalism was first implemented in the 16<sup>th</sup> century, when nine districts merged to form the state of Negeri Sembilan. As documented in history, all nine districts with their own sovereignty decided to centralise administration under a newly established institution known as Yang Di Pertuan Besar, who serves as the head of Negeri Sembilan's federal government.

With regard to the post-colonial era, prior to the establishment of the Federation of Malaysia in 1963, there was already a coalition or Federation of Malaya which had previously acquired independence from the British Colonies on August 31, 1957 (the first official establishment of a federation in Malaysia was the Federated Malay States in 1895). Consequently, in 1948, the British Government introduced the Federation of Malaya to replace the Malayan Union, which had been opposed by the people of Malaya in 1946. The Federation of Malaya is the combination of the Federated Malay States (namely Pahang, Selangor, Negeri Sembilan, and Perak) and the Un-Federated Malay States (namely Kelantan, Terengganu, Kedah, Perlis, and Johor), which constitutes 9 states which are geographically located in Peninsular Malaysia.

On 16<sup>th</sup> September 1963, these Malay states, along with Singapore, Sarawak, and North Borneo, formally formed the Federation of Malaysia. Thus, to guarantee that the framework of this federalism is properly implemented, all member states of

the Federation (Malaysia) have been bound by a written instrument known as the Federal Constitution, which is the highest law of the Federation of Malaysia. The Federal Constitution is a written document which clarifies the jurisdiction of the Federal Government (Federal Government) as well as the State Government. These details of the executive powers of each government can be referred to in the Ninth Schedule of the Federal Constitution, which has been divided into 5 lists, namely i) Federal List; ii) State List; iii) Supplement to the State List for the states of Sabah and Sarawak; iv) Concurrent List; v) and Supplement to the Concurrent List for the states of Sabah and Sarawak.

In the context of federalism practiced in Malaysia, even though the Federal Constitution clearly states the jurisdiction of the Federal Government and the State Government, in certain circumstances, the Federal Government may hold general law for the purpose of standardization of implementation at the state level. For example, in issues involving land administration, although issues involving land alienation are subject to the discretion of the State Government through the National Land Code 1965, some general matters are regulated at the federal level, for example, involving the maximum tenure of land leases and the types of titles to be issued for the purpose of registering the land.

Additionally, in the context of the Federation of Malaysia, the practice of federalism tends to foster the Federal Government's supremacy. This has an effect on the unbalanced connections between the constituents of the federal government, as Loh concluded (2010). Loh (2010) also noted that the Federal Government's dominance can be attributed to three factors: 1) Inequality in the design of the Federal Constitution, which favours the Federal Government; 2) A stagnant political process over a long period of time, which has resulted in Malaysia being governed by a single dominant party, *Barisan Nasional*; and 3) The implementation of the New Economic Policy (NEP). Referring to the above-mentioned literature, it can basically be construed that the beginning of the Federation of Malaysia has been implemented with the right steps through specific designations involving federal and State Government jurisdictions. However, there might be imbalances as a result of different political aspirations between the State Government and the Federal Government.

## Malaysian Federal System: Kelantan State Experience

Kelantan is a state in the Federation of Malaysia with an area of 15,040 km<sup>2</sup>. The state has 11 districts and shares an international border with Thailand, the northern part of the state. Directly or indirectly, these boundary sharing factors also affect the culture, lifestyle, and various social aspects of the people in the state. The total population in the state of Kelantan is 1.9 million, comprising 97.4% citizens. Specifically, the Bumiputra accounted for the majority of the population at 96 % of the total citizens in the state (Department of Statistics Malaysia, 2019).

Given the high Malay/Bumiputera population statistics, it is not surprising that the political scenario in Kelantan is focused on the competition of political parties dominated by Parties/Political Coalitions that are largely dominated by core Malay/Bumiputera, such as Islamic Party of Malaysia (*Parti Islam SeMalaysia- PAS*) or *Barisan Nasional* (headed by UMNO - United Malay National Organisation). Noor (2016) recalls the history of elections in the state of Kelantan through the following sequence, starting from 1955 to 1959 (Alliance Government), 1959 to 1974 (*PAS* Government), 1974 to 1976 (*PAS* and *BN* Government), 1976 to 1978 (*PAS* Government), 1978 to 1990 (*BN* Government), 1990 to 1995 (*Angkatan Perpaduan Ummah APU* and *PAS* government), and 1995 to date (*PAS* Government).

This sequence of events clearly shows that the Kelantan State Government has been in a different dimension or aspiration from the party that became the Federal Government for a relatively long period compared to the situation in other states. Even until 2018, the Kelantan Government was still governed by a party that is different from that at the Federal Government level. Subsequently, on May 9, 2018, Malaysians were shocked by the defeat of the *Barisan Nasional*, which had been the Federal Government since Malaya achieved independence in 1957 (before 1973, the coalition of *Barisan Nasional* was known as the *Perikatan*). For the first time in the history of Malaysia, a coalition of new parties known as *Pakatan Harapan* has managed to take over the administration of the federal government in Putrajaya. *Pakatan Harapan* not only won the federal level election but also the state legislative assembly elections in five states across Peninsular Malaysia, including Sabah. Although Sarawak was won by a

component of the *Barisan Nasional*-led government, the state eventually broke away from the coalition and formed its own political party that support the Federal Government led by Pakatan Harapan.

Despite that, the situation is different in Kelantan, where the development of a new political force has had little effect on the state's population. In Kelantan's 14<sup>th</sup> general election, *Pakatan Harapan* candidates lost all parliamentary seats and state seats in the State Legislative Assembly. The general election result demonstrated that the majority of Kelantanese were unimpressed with the movement launched by this new coalition of Pakatan Harapan, which has been portrayed and emphasised by the media as an alternative to the ruling *Barisan Nasional*.

In general, from the perspective of the majority of Kelantan, the 14<sup>th</sup> general election is not a competitive election in regard to Malay-based party competitions. This is in contrast to the situation in other states, which is clearly a one-on-one election situation between *Barisan Nasional* and *Pakatan Harapan* candidates. In Kelantan, the reality was that people were more attracted to the contest between Malay-based parties involving *Barisan Nasional* and the Islamic Party of Malaysia (*PAS – Parti Islam Se Malaysia*). This situation resulted in Kelantan continuing to be ruled by the government under the Islamic Party of Malaysia (*PAS – Parti Islam Se Malaysia*) and remaining as an opposition state at the federal level since 1990.

According to the majority of political analysts, the most difficult general election ever conducted occurred in 1990, when a heated electoral environment developed between *Barisan Nasional* and a coalition known as *Angkatan Perpaduan Ummah (APU)*. *APU* is a Malay-based political party dominated by the *Semangat 46* Party, a breakaway faction of the UMNO party (the main party in the *Barisan Nasional*) that has teamed up with the Islamic Party of Malaysia (*PAS – Parti Islam Se Malaysia*) and other opposition parties to challenge the *Barisan Nasional* (government) party in the upcoming election. Yusoff (2001) stated that the 1990 general election was the first election to witness the strategic understanding by opposition parties in opposing the *Barisan Nasional*. To ensure a realistic and significant competition can be given to the *Barisan Nasional*, all opposition parties, for the first time, have been willing to campaign on common

issues, in contrast to prior elections that prioritised the party's ideology separately. This understanding between parties and their background as a Malay-based coalition has been an important factor in the success of the *Angkatan Perpaduan Ummah (APU)* Coalition in seizing the state administration of Kelantan through the general election in 1990. According to Singh (1991), the 8<sup>th</sup> General Election in 1990 marked a watershed moment in Malaysian politics, establishing a distinct two-party system. This is a significant milestone since it indicates that *Barisan Nasional's* hegemony in Malaysian politics is shifting to a more open period with a more organised opposition and has changed the country's political environment.

Reverting to Kelantan's experience with the Federal Government, there were situations where the State Government had simply been marginalised over the difference in aspirations with the party ruling at the Federal level. Chin (1997) used the term political recession to explain the administrative situation in Kelantan after 1990, which saw the Federal Government deliberately channelling projects and financial assistance directly to Federal Government officials, bypassing State Government officials. This situation has affected state-level development planning and implementation. Loh (2010) described this situation where in 1991, less than a year after the 1990 general elections, the Federal Government (*Barisan Nasional*) had taken steps to take over certain project implementations by setting up the Federal Development Department or *Jabatan Pembangunan Persekutuan (JPP)* in Kelantan and Sabah. In explaining the situation, Muhammad Syukri Salleh (1999) highlighted that the Federal Government's move to establish the *Jabatan Pembangunan Persekutuan (JPP)* in Kelantan does not only cause confusion for the people, but also for civil servants in the state. There were instances when State and Federal Government departments shared functions and programmes. As a result of this circumstance, financial resources that were meant to go via the State Government have been purposefully routed through Federal Government Departments or Agencies. This situation can directly be seen as a political move to give the perception to the people of Kelantan that the State Government does not have the capability and capacity to drive development in the state. As a result, the volatility of these political flows has greatly affected the state's overall development context.

## “New Malaysia” and Kelantan

Before the end of the *Barisan Nasional*-led federal government in May 2018, several issues were still being disputed between the State Government and the Federal Government involving:

- i) Petroleum Royalty Claim – The issue was related to the agreement between the Kelantan State Government, the Federal Government of Malaysia, and the Federal Government’s wholly owned oil and gas corporation, *Petroliam Nasional Berhad (PETRONAS)*, that was signed in 1975. Based on the agreement, the State Government would be eligible for 5% of revenues generated based on the extraction of oil and gas from the state’s onshore and offshore facilities. However, based on the claim by the State Government, the Federal Government and *PETRONAS* have denied the rights to the royalty payment. Reflecting the opinions expressed by Kelantan people during the 2018 election campaign, *Pakatan Harapan* has vowed to make royalty payment a priority if elected as the federal administration. This matter then progressed through various stages, culminating in judicial procedures (the suits were later withdrawn by the State Government in 2019). However, until now, there has still been no clear indicator or time frame for the Kelantan State Government to obtain the rights of the royalty as guaranteed by the agreement signed almost 45 years ago. The issue of the petroleum royalty dispute is still indecisive due to the technical issues related to the boundary survey between the state of Kelantan and the states and territories bordering it.
- ii) Implementation of affordable housing - The issue of achievement of this affordable housing was also emphasised by Bajunid and Ghazali (2012), which stated that although affordable housing is a regular issue addressed by the federal government in most Malaysia Plans, in reality, since the 3<sup>rd</sup> Malaysia Plan, it has been identified that the performance of providing low-cost housing in Kelantan has not achieved its target. Subsequently in July 2019, a report by the Auditor General (Federal Government Department) was tabled in Parliament. The report, which is known as *Laporan Ketua Audit Negara 2018 – Pengurusan Aktiviti/Kewangan Jabatan/Agensi dan Pengurusan Syarikat Kerajaan Negeri Kelantan Siri 1*, highlighted the overall



performance of affordable housing construction by the State Government from 2015–2018. Based on the report, the total number of completed construction units was very low (3.2%), compared to the overall target of 5000 units (from 2014–2018). The report also highlighted that less than 20% of the financial allocation for affordable housing has been utilised by the State Government (only RM5.07 million or 18.8% was spent, compared to the RM27 million allocated for 2016 to 2018). Despite the Kelantan State Government's subsequent clarification of the stated scenario, it indirectly represented a divergence in viewpoints between the two administrations that resulted in the report's publishing.

- iii) Kelantan water crisis – The state of Kelantan has experienced issues related to the distribution of treated water in the state for quite some time. Based on media statements by the State Government, the cost of addressing this issue requires a huge allocation that requires a financial allocation by the Federal Government. It includes the building of dams and water treatment plants, as well as the replacement of ageing pipes and the upgrading of sewage systems. This issue has received attention from the Environment and Water Ministry (KASA), which stated its commitment to commit an allocation of almost RM7 billion in the 12<sup>th</sup> Malaysia Plan for a holistic solution to treated water management in the state of Kelantan. This large allocation requirement is significant because, in addition to the cost of upgrading existing water resource and distribution facilities, Kelantan is one of the states that is frequently flooded, and dam construction will have a significant impact on the management and distribution of water supply while also serving as a method of flood mitigation.

## **CONCLUSION AND THE WAY FORWARD**

The Kelantan electorates have made a clear choice by giving the mandate to the Islamic Party of Malaysia (*PAS – Parti Islam Se Malaysia*) to govern the State Government for 11 out of 14 general elections that have been held in Malaysia. This scenario resulted in the state of Kelantan being administered for a relatively long period by a separate administration from the Federal Government. While this

is a perfectly natural condition under any democratic administration system, it has specific consequences for the state's growth process and advancement.

When considering the concerns outlined above, the primary restrictions on the relationship between the Federal and State Governments are the ability and allocation of financial resources between the two sides. As previously said, royalty claims, affordable home building, and the supply of basic services such as treated water are all components of economic growth that need significant financial resources and, of course, significant federal government appropriations. 2018 was a watershed year for the country's political environment. Malaysia's political landscape has grown more dynamic because of the shift in the administration of the central government, which had been dominated by a single party. Unexpectedly in March 2020, Malaysia was again hit by a political crisis that saw the *Pakatan Harapan* Federal Government collapse after ruling for only 2 years. The Federal Government was later taken over by a new coalition of political parties known as the *Perikatan Nasional* (National Alliance Government), which also includes Parti Islam Se Malaysia (*PAS*)- the State Government for Malay/Bumiputera majority states, such as Kelantan, Kedah, and Terengganu as one of the coalition members. It is hoped that this new political environment would further strengthen Malaysia's democracy. The tight and ongoing cooperation between the Federal and State Governments, regardless of political affiliation, should be the primary objective in order to guarantee that the agenda to preserve the welfare and well-being of the people may continue to be implemented.

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