

Malaysia's Centralized Federalism: Structural Constraints for the PR Penang State Government

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- Malaysia's federalism has been described as 'very centralized', 'coercive rather than cooperative', and even dismissed by one analyst as a 'flawed federation'
- 3 explanations

- **1. CONSTITUTIONAL DESIGN**

- The 1957 *constitutional design* favours the fed over state govts, in legislative jurisdictions & in revenue assignments.
- Fed-State relations discussed in Part VI of Fed Const and elaborated in 9th and 10th Schedules
- The **9th Schedule** lists distribution of legislative powers & responsibilities bet fed & state govts.
- Apart from 'high politics' of foreign affairs, defence, internal security, law and order, the purview of fed govt includes:
trade, commerce & industry; communication & transport; education & health.
- State govt's purview restricted to:
lands & mines, Muslim affairs & customs, native laws & customs; agri. & forestry; local govt & local services; burial grounds, licensing of cinemas & theatres
- Concurrent list covers: social welfare, scholarships, town & country planning, drainage & irrigation, housing, culture & sports, public health

- The **10th Schedule** elaborates on revenue assignments based on 9th Schedule.
- Income taxes, property & capital gains taxes, international trade taxes, production & consumption taxes, all, assigned to federal
- State govt only collects natural-resource related taxes such as revenue from lands & mines, & forests.
- re: **another 10 tax-sharing taxes and levies** – state allowed to collect or if fed govt collects state is reimbursed (eg. Petroleum royalty).
- Fed govt obliged to provide 2 major grants to state govts, i.e. **capitation grant** (based on population size)
- & **state road grant** (to maintain roads, in effect a grant based on size of state).
- **Result: dist of revenue and hence financial resources very pro-federal.**

- Penang has little land & forest, no petroleum or minerals, so total revenue raised is small. Can cover operating expenditures but little funds for development!
- So needs help from fed govt which has sole jurisdiction and discretion over disbursement of *nation's development funds*
- For political expediency, fed govt provides funds to states, incl to Opposition-led states.
- BUT development funds to the PR states channeled to State Development Office (SDO) which reports to Implementation Coordination Unit (ICU) of PM's Department, w/out going thru State govt.
- PM's Dept has huge allocation in annual budget esp since 2008

2. POLITICAL PROCESS:

- A) BN's control of fed govt over 50 yrs also facilitated centralization
- coincides with existence of coercive laws, abolition of local govt elections, perennial use of ISA , etc
- Fed BN has removed BN or non-BN leaders if they challenge fed prerogatives; even declared Emergency (Sarawak & Kelantan)

- B) More critically, the bureaucracy at all levels (fed/state/local) has been politicized and is very pro-BN

- C) Top state bureaucrats like the State Secretary, State Development Officer, State Legal Adviser, State Financial Officer, the MPPP and MPSP YDPs, the Dos, all, federal PTD officers
Complaints by Pg and other PR-led state govts that PTD officers uncooperative, even hostile.
(Apparently instructed by Fed that unnecessary to attend all State govt meetings/activities/functions unless specifically informed of their role in particular matter, as specified in agenda, and if officially invited!!)

- Understandably, Pg CM focused on appointing PTD officers of his choice to several top state posts during his first two years (eg. State Sec, and YDPs of MPPP & MPSP)
- D) Apart from politicization of bureaucracy, incompetence, 'slack' maladministration & 'mismanagement' of public funds have crept in, at all levels of govt
- Many senior officers not competent but promoted on account of 'politics'. No secret!
- Also, state govt & bureaucracy operates alongside the fed one that takes orders from Putrajaya.
- So relationship bet the PR-state govts & the Depts of Education, Consumer Affairs, MIDA, even in innocuous matters like Health, Tourism, Culture and Welfare have been tense.
- Functions/activities organized by PR state govt have been boycotted. Having access to more funds than state counterparts, they often organize own functions & projects officiated by fed BN ministers.

• **3. NEP-driven DEVELOPMENT PROCESS**

also contributed to centralised federalism

- many statutory bodies & GLCs established to promote NEP. Still other public sector bodies set up to implement & monitor NEP
- for eg Commercial Vehicles Licensing Board (CVLB), a federal body, is charged with promoting bumiputera participation in transportation industry. Consequently, licensing of taxis, buses, and even routing of buses in states came under its purview
also Pg airport and ports controlled by federal. For eg Chua Soi Lek put i/c of Pg Port
- Since March 2008 BN fed govt has attempted to prevent financial resources from being transferred from centre to states
In effect, the BN fed govt refuses to acknowledge the imp distinction in federal systems i.e. bet *(federal) government-to-(state) government ties* from *party-to-party ties*.
- Case of federal constituency development fund (CDF) only for BN wakil rakyat; appted 'BN co-ordinators' in Opp-held constituencies

- **Not so Easy to Bully after 2008**

- In the past, the fed bullied Opp-led govts into submission. Worked in Sabah. Didn't in Kelantan but development lagged behind

- Less easy to bully after 2008 because four states governed by PR

S'gor and Pg have large industrial & service sectors, tied into global economy Even with funds cut, though difficult, capable of sustaining themselves. If they suffer economically, negative spillover effects onto national economy

- BN no 2/3 maj in Parliament so can't amend Constitution as before. Instead, Opp MPs have made much noise; apart from loud protests by PR state govts; and to some extent the *rakyat* in those states
- So there was, initially, a stand-off of sorts esp re: implementing development projects