

# Federal-state friction:

Amid Malaysia's dual political and pandemic plight

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# Introduction

In May 2018, the opposition coalition Pakatan Harapan (PH) defeated the ruling incumbent Barisan Nasional (BN), which ranked as one of the world's longest-standing dominant party regimes, having been in power since 1957. But this victory was short-lived. After only 22 months, PH collapsed due to a prolonged leadership tussle in February 2020. A new coalition, the Perikatan Nasional (PN), took over government.

Then came COVID-19. Malaysia in 2020 has been hit not only with political turbulence but also by the crisis of the pandemic. This report examines these twin shocks from the perspective of federal-state relations. Specifically, how have political turbulence and the pandemic affected federal-state relations? How have federal-state relations in turn affected the response to the pandemic and national-level political turbulence?

Article 1 of the Federal Constitution of Malaysia 1957 describes the country as a federation of 13 states and three territories. A spirit of federalism was also infused into the Federation of Malaya Agreement 1948, when the Malayan states came together. At that critical foundational juncture, it was agreed “a strong central government” would be established. But it was also agreed that “the individuality of each of the Malay States and of the Settlements should be

clearly expressed and maintained.” (Pearn, 2001).

Over the years, state powers have gradually eroded, giving rise to greater central powers within the federal government. That process began when local council elections were abolished in 1965 and continued with federal emergency measures in 1969 and the use of state economic development corporations (SEDCs) to spearhead the nationwide New Economic Policy in 1971. Over the following decades, other institutional mechanisms were introduced that further strengthened the federal government's hold over states.

On the surface, there appears to be a clear demarcation of powers between the federal and state governments. The Ninth Schedule of the Federal Constitution recognises the semi-autonomous nature of states, which have some “constitutionally entrenched division of powers in the legislative, executive, judicial and financial fields.” ([Shad Saleem, 2019](#), p. 74).

In practice, there has been ample scope for the solidification of a powerful central government. For example, Article 71(3) allows the federal government to amend a state constitution if there is non-compliance by a state with the federal constitution. Article 75 provides that the federal law shall prevail when any state law is inconsistent with a federal law, while Article 76 allows the federal government to make laws pertaining to state matters if it promotes the uniformity of laws or if it is requested to do so by states. Article 76A permits parliament to delegate its powers to the states. Further, states have absolutely no power to prevent a constitutional

amendment as this is the exclusive domain of federal parliament<sup>1</sup>. Article 81 of the Federal Constitution states that the executive authority of every state is to be exercised to ensure compliance with federal law, and should impede or prejudice the exercise of the federal government. The federal government can also utilize emergency provisions to suspend state rights under Article 150.

The 13 states of Malaysia each form their own state governments by way of elected representatives. Through the respective legislative assemblies, they pass legislation and formulate public policy at the state level, in the domains over which they have jurisdiction. The Federal Constitution's Ninth Schedule places local government under the jurisdiction of the state governments. However, in the spirit of 'cooperative federalism' with its strong role for the centre, there exists the National Council on Local Government (NCLG), formed under Article 95(A) of the Federal Constitution. Chaired by the Prime Minister, it meets annually and is comprised of the state Menteris Besar and Chief Ministers as well as federal government representatives. Crucially, the NCLG is permitted to formulate national policy on local government that states must comply with. As the Chair has a casting vote, the Prime Minister may assert a strong role in local government matters.

While [some have described](#) the system as "cooperative federalism", with consensual sharing or delegation of power from one tier to another (Shad Saleem 2019), the

nature of such "cooperation" has largely been determined by the centre. Even so, given overlapping domains, there has been a substantial degree of contestation over the policy responsibilities of federal and state levels. This is not uncommon in federal systems, but particularly notable given the centralised character of federal-state relations in Malaysia. Some examples are found in the realm of utilities. In opposition-controlled Selangor, the federal government intervened in the state government's buyback of water concession companies in 2008 after water services were transferred from the state to the concurrent list in the Federal Constitution. When it comes to land management, states have the authority to approve land development projects and opposition-controlled Kelantan has in the past blocked federal projects. Similarly, the federal government privatised waste management nationally from 2007 onwards, but three states opposed the move, preferring to carry it out through their own service providers.

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<sup>1</sup> In 1963 when Malaya was enlarged to Malaysia, Kelantan objected to the merger. In *Government of Kelantan v Government of the Federation of Malaya (1963)*, the court held that the federal government

was not required to obtain Kelantan's consent to the admission of new states to the Federation, under the amendment procedure of Article 159 (Shad Saleem 2019).

# Political crisis and downward resource distribution

When PN took control of the federal government after a week of labyrinthine plots and counterplots in February 2020, its partners included Parti Pribumi Bersatu Malaysia (Bersatu) which left from PH, the United Malays National Organisation (UMNO) and the Malaysian Islamic Party (PAS). UMNO was at the core of the ruling coalition that dominated Malaysian politics from 1957 to 2018, with PAS a longstanding bulwark of the opposition. In the midst of the political turbulence, several state governments also changed their affiliation. PN gained the lion's share of states with eight in total: Kelantan and Terengganu (the two East Coast states led by PAS), Perlis and Pahang (already UMNO states prior to this), and the four wins of Johor, Malacca, Perak and Kedah. This left PH with only three states in hand, down from seven: Selangor, Penang and Negeri Sembilan. The parties that formed the Sabah (Warisan) and Sarawak (GPS) state governments maintained their previous political affiliations, with the former supporting PH and the latter PN.

The machinations at the state level are important as they have a direct impact on how political, fiscal and administrative resources and positions are distributed downwards from the centre to the periphery. The politics of resource distribution has come into sharp relief during the pandemic, with the serious economic crisis heightening the need for support from the centre. There is an

[impending recession](#) with [more than a third of the working age population outside the labour force and an unemployment rate that has spiked to 5%—a 30-year high](#). Given the highly centralised nature of resource distribution in Malaysia, states affiliated with the federal government would invariably stand to gain by being granted access to greatly demanded resources.

The first effect on resource distribution from the national powershift was the allocation of local political positions to party elites. The new PN state governments removed all PH local councillor appointees, as well as [village community council members](#), and [replaced them](#) with their own. While PN consolidated power by awarding its allies with [lucrative board chairmanships and directorships](#) within government-linked companies (GLCs) at the national level, this also took place within the states it newly controlled. Because the Menteri Besar/Chief Minister is the Chair of most major state-level GLCs by default, the new PN-aligned state chief executives automatically assumed these positions. For example, the new Johor Menteri Besar [took over chairmanship of the state's premiere GLC Johor Corporation](#). The same took place in [Kedah and Malacca](#) where the state executive councillors and party members forming the new UMNO and Bersatu governments were also rewarded with board directorships.



Intra-coalition feuding also led to immediate changes at the lowest levels. In Penang, individuals linked to Azmin Ali (who defected from PKR to Bersatu and played an instrumental role in forming the new PN government) [resigned](#) their positions from the PH-controlled state government. However, individuals part of an NGO linked to him were [rewarded with local councillorships in another northern state of Kedah](#). If there is a change in government yet again, this will invariably directly implicate the way political, fiscal and administrative resources and positions are distributed from the federal government downwards to states and ultimately, local communities.

The practice of discriminatory Constituency Development Funds (CDF) is another good example of how resource distribution is affected by politics at the national level. Introduced in 1971 to allow BN politicians the opportunity to request resourcing for minor development projects within each constituency, CDFs are an important source of funds for elected representatives. CDFs allow members of parliament (MPs) to respond to the real-time needs of their constituents, especially within rural areas, ranging from fixing roofs to paying for funeral expenses. During BN's time, opposition parliamentarians could not access CDFs. When PH took over in 2018, some funds were granted to the opposition although this was still unequal (RM500,000 to government MPs; RM100,000 to opposition MPs).

The Penang state government's ambitious Penang Transport Master Plan would also need to be reconsidered, since the

previous federal government guarantees secured under PH would likely [no longer apply](#) under PN. In what Penang claimed to be a politically motivated move by the centre, former Chief Minister of Penang, Lim Guan Eng, was [arrested](#) in early August on the back of investigations by the federally-controlled Malaysian Anti-Corruption Commission (MACC) for alleged corruption for a related Undersea Tunnel.

Under PN, the federal government immediately resumed the culture of biased allocation, with claims by PH MPs that their [annual allocations have been reduced](#) completely. It is true that longer term reforms are necessary to completely revamp the system of CDF allocations and remove political bias, as well as detach funding dependency on individual politicians to allow for the institutionalisation of aid through, for instance, local governments or land district offices. However, in the immediate context of an economic crisis, large numbers of people will likely increasingly depend on any source of aid their representatives can provide.

There have already been claims by PH MPs that food basket aid to low-income communities provided by the Ministry of Women, Family and Community Development were [not being delivered to opposition-led constituencies](#). However, the political discrimination cuts both ways.

In an almost tit-for-tat manner, the opposition Selangor state government—one of the richest, most industrialised states in Malaysia—responded by announcing that its special COVID-19 allocation in the state economic stimulus package would [not be given to state](#)

[assemblypersons aligned with PN](#), but instead to state-appointed constituency coordinators. Its official response was ‘this is not new practice.’ Opposition parties are commonly punished in such a manner, unsurprising for a country in which political success is so greatly dependent on personalised patron-client relationships executed through the vehicle of strong parties and party coalitions. Access to state funds facilitates such direct interaction with constituents, in turn allowing better visibility amongst voters and attribution of performative legitimacy.

One direct consequence of discriminatory resource allocation from the centre to the periphery is that the political makeup of state governments matters in a time of economic crisis.

Opposition states that are well-endowed like Selangor and Penang can afford to carve out allocations from their annual budgets to provide direct assistance to constituents. Even so, the state and local governments in Selangor [expect budgets to be slashed](#) considerably as unplanned cuts in revenue and new demands for expenditure required by the emergency escalate. This includes rental fee waivers, equipment for disinfection exercises and protective equipment for medical front-liners.

So can poorer states afford to be run by the opposition? Do constituents strategically vote in the incumbent federal-level political party (or coalition), if only to benefit in the forms of financial and other welfare aid? Opposition party Gerakan joined the ruling coalition in 1972 for precisely the reason that the government’s primary task is to “restore economic buoyancy to the state” (Lim,

1971 in [Khoo and Toh, 2019](#)). Entering the coalition not only secured federal support and funding for Penang but also “inserted Penang’s progress into the vision of economic nationalism” (Khoo and Toh, 2019).

However, withholding resources has also had the opposite effect of stoking resentment against the incumbent federal regime. PAS for instance has successfully leveraged the narrative of oppositional politics in the states it controlled (PAS controlled the Kelantan between 1959–78 and from 1990 to the present, and Terengganu on the East Coast between 1959–61 and 1999–04). It commonly blamed its economically disadvantaged position on the federal government to galvanise local electorate support against a villainised UMNO that would “rather see the state suffer for its recalcitrance” ([Azmil, 2018](#)).

# The pandemic and federal-state relations

The COVID-19 crisis has offered an important study of the legality and constitutionality of Malaysia's three-tiered system of government. The politicisation of the emergency response between the federal and state governments was evident even in the early weeks after PN was sworn in. The first National Action Council meeting, chaired by newly minted Prime Minister Muhyiddin Yassin to co-ordinate government responses to the COVID-19 crisis, [excluded](#) all opposition PH states. The decision to open up the economy on 4 May under a new phase of a Controlled Movement Control Order (CMCO) was also apparently made unilaterally [without proper consultation](#) with the state governments. A document containing the standard operating procedures required under this phase that the federal government promised to send to them beforehand was not delivered in time. The sidelining of state governments caused considerable tension where nine states—including even states aligned with the federal PN government—announced they would [not comply](#) with the sudden announcement to reopen the economy. The conflict arose in part from ambiguity between the 1957 constitution and the Prevention and Control of Infectious Disease Act 1988 (Act 342). Act 342 is a federal law and an associated federal order defines an “infected area” to include all states and federal territories in Malaysia. However, the Federal

Constitution defines ‘public health, sanitation and prevention of infectious diseases’ as falling under the Concurrent List of the Federal Constitution of Malaysia

The Penang state government stated that it was [prepared to face legal challenges](#) over its decision not to open up the economy on 4 May. The Sarawak state government stated that the [reopening of economic activities would not be conducive to managing public health in the state given the state's logistics capability and its own capacity](#), while Kedah said it would not compromise the safety and welfare of its people. Pahang said it needed to [carefully study](#) the situation and maintained it would not reopen the economy yet. The federal government reacted by saying that all states are obliged to adhere to federal law, even [threatening](#) that not complying would expose them to lawsuits from industry players. Several industry associations have issued statements calling for state governments not to restrict companies from resuming operations.

Legal interpretations differ on whether states have the right not to comply generally with federal law as well as specifically with Act 342, and the constitutionality of non-compliance would have had to be contested in the court of law. As outlined above, states do have some legal jurisdiction over matters



related to the management of public health. Further, provisions in the Local Government Act 1976 grant local governments the ability to preserve public health and prevent the outbreak and spread of diseases. These provisions greatly empower the country's third tier of government. It is local governments which have been determining the detailed conditions surrounding the opening up of markets, sundry shops and restaurants within states.

On the other hand, some legal experts emphasise Article 81 of the Federal Constitution in stating that federal law prevails if conflicts arise between federal and state law. In the case of states refusing to re-open their economies, the states were not exercising their powers to "impede or prejudice" the federal government's powers (which Article 81 requires). Rather, they were asserting their right to impose additional precautionary restrictions which did not defy federal restrictions under the CMCO. Since the country was still operating under one form of restricted movement, the states merely interpreted this regulation based on their specific state needs by requiring even more restrictions. Based on this view, it was therefore arguably within their powers not to comply.

Regardless of constitutionality, states would not have been able to realistically enforce their decision not to comply with federal government orders to reopen the economy. This is because the police and army report to the federal government. States could only depend on state and local government officials to enforce additional restrictions, possibly only in selected states with the capacity to do so.

For instance, more than 5000 staff across the two local governments of Penang were mobilised to monitor compliance, and the same took place in Selangor and Sarawak. The following section overviews how states mobilised their own resources to control the spread of the virus.

#### STATE AUTONOMY IN PANDEMIC RESPONSES

Amid the federal-state tussle, state governments continued to play a crucial role in managing the pandemic. This section draws substantially from Bridget Welsh's (2020) [analysis](#) of the unsung role of state governments; her report is worth reading in full. Public healthcare is a federal matter, and all state health departments across the country report back to the Ministry of Health at the centre.

Several state governments engaged their own resources, for instance in testing and contact tracing. Selangor and Penang both provided funds for additional testing, and many states developed their own tracing applications, for instance Johor (Jejak Johor), Selangor (SELangkah), and Sarawak (CovidTrace and Qmunity). For a full list of states that emerged with their own applications, see Welsh's (2020) [piece](#). Penang and Sarawak did a particularly excellent job of providing public communication with their constituents, having regular briefings on Facebook. Penang opened 24-hour hotlines and [its own COVID-19 website \(Welsh, 2020\)](#). The states of Sarawak, Sabah, Selangor and Penang also collaborated well with civil society and charity networks to coordinate donations and medical assistance (Welsh, 2020).

State governments were able to complement the federal government's

social assistance packages by reallocating additional budgets to further aid affected communities. The two largest budgets specific to COVID-19 assistance packages were from the East Malaysia states of Sarawak and Sabah, followed by the highly developed Selangor and Penang (both of which are opposition-controlled). Other states that provided funds to assist communities included Perak, Pahang, Kelantan, Negeri Sembilan, Johor, Terengganu, Malacca, and Perlis. Among the assistance provided was cash aid to medical frontliners, rent relief and food aid (this paragraph's analysis is based on a table within Welsh's (2020) piece [here](#)).

Some states exercised their constitutional powers to guide the emergency response within their borders, including Sabah and Sarawak (the two states of East Malaysia that have greater autonomy relative to their Peninsular Malaysia counterparts under the Federal Constitution). Sarawak issued their own circulars on regulatory compliance such as on the [closing of premises](#), and both states created their own immigration regulations (Welsh, 2020). Sarawak's scheme for listing cases and Sabah's amendments to rules on entering the state tended to contradict federal announcements, creating some confusion (Welsh, 2020).

State health directors worked professionally and coordinated well with state executive council members in charge of health, whether in government-aligned or opposition-controlled states (Welsh, 2020). This highlights the important role that the civil service often plays in sidestepping the politics of the day and carrying on with the immediate

tasks at hand—in this case the handling of COVID-19.

Although public health is a federal matter, that state governments have been able to make use of institutional and fiscal resources to provide healthcare services and assistance during the pandemic opens up the possibility of reinterpreting how healthcare is conceived constitutionally. Even prior to 2018, Selangor and Penang that were both controlled by the opposition coalition are examples of states which harnessed their own resources to distribute health-based assistance programmes that were popularly received. In Kelantan and Terengganu, religious organisations have played a vital role in mobilising assistance to impoverished communities (Welsh, 2020). During the current pandemic, Sabah, Sarawak, and Penang passed aid packages within their respective state legislative assemblies, in stark contrast to the federal government's unwillingness to do the same at the national level. Prime Minister Muhyiddin convened only a half-day parliamentary session without any debate whatsoever to witness the King's speech on 18 May, in a move seen as avoiding a no-confidence vote.

#### FEDERAL-STATE TENSIONS, NATIONAL POLITICS AND THE PANDEMIC RESPONSE

More recently, central-state contestations over oil rights have awoken again, a longstanding issue given that the four oil-producing states in Malaysia (Kelantan, Terengganu, Sabah and Sarawak) also record some of the highest poverty rates relative to the national average. The grievances of oil-producing states significantly affect national politics, as their desires for more representation and

access to resources are a field of contestation for governments seeking to woo MPs, and is a source of leverage during this period of economic crisis and political uncertainty.

Sabah and Sarawak have a relatively high degree of political leverage nationally because they collectively comprise more than 25 percent of the total number of MPs in Parliament's lower house (56 out of 222 MPs). Any Peninsular-based political coalition intending to form the federal government requires the support of either, or ideally both, state political parties. Including Sabah and Sarawak in national decision-making platforms has therefore been of vital political significance. Any coalition of parties helping the federal government has to ensure leaders from these two states are given ministerial positions within the federal cabinet.

Though not officially part of either of the two coalitions, the parties that form the Sabah (Warisan) and Sarawak (GPS) state governments are crucial political allies that the PH and PN have both tried to woo. Although neither party ultimately changed its political affiliation following the government change in early 2020, it was never quite certain throughout the turbulent political crisis week which side each was going to support. Decisions were presumably decided on the basis of greater self-rule and political representation at the central leadership level and increased access to fiscal resources, particularly in the form of oil royalties.

In a clear sign that state grievances continue to affect national turbulence, in early June several PH leaders publicly [alluded](#) to having won over several

Sarawakian MPs, in an attempt to be able to form government yet again. The loose "[Pakatan Plus](#)" coalition, which includes the original PH and additional MPs from Warisan (Sabah) and the Mahathir faction from Bersatu, has reportedly increased its count of MPs to 107—still insufficient to form even a slim parliamentary majority. Nor has the coalition been able to come to an agreement on its prime ministerial candidate, with component parties vacillating between Mahathir Mohamed and Anwar Ibrahim. In a surprise announcement at the end of June, Mahathir himself dropped his bid to return as prime minister, [naming instead](#) Sabah's Chief Minister Shafie Apdal for premiership in a public recognition of East Malaysia's significance at the national level.

As alluded to above, one political sore point in federal-state relations over the last decade has been the sharing of natural resource revenues between the central government and the four oil-producing states of Kelantan, Terengganu, Sabah and Sarawak. While PH was in power, it came to an agreement to settle longstanding disputes over unpaid oil royalties with the Kelantan and Terengganu state governments. Payments to Kelantan were to have begun in early 2020, but these were based only [on 2 out of its 12 oil and gas fields](#). Meanwhile Terengganu received [RM1.27b](#) in oil royalties owed from January to September 2019. These were intriguing developments, since at the time both Kelantan and Terengganu were under the federal opposition party PAS.

That the PH federal government was willing to go the extra mile providing concessions to the two opposition states

was meaningful on several counts. First, PH may have needed to publicly display support to Malay-Muslim communities, as it was battling the widespread perception that the coalition was dominated by the mostly ethnically Chinese Democratic Action Party (DAP). The two East Coast states are primarily Malay-Muslim in demographic makeup. Second, then Minister of Economic Affairs Azmin Ali acted as the chief negotiator with the PAS state governments. He had maintained friendly relations with the Islamic party—partly to maintain Pakatan’s hold over the Selangor government in 2015—since his days as Selangor Chief Minister. During the 2020 political crisis, Azmin Ali defected from PKR to Bersatu and played an instrumental role in forming the new PN government.

Calls for oil rights have come the loudest and strongest from the East Malaysian states. Sabah and Sarawak collectively contribute to 60 percent of the country’s oil and gas revenues. Sarawak lawmakers, for example, had previously [passed a motion](#) in their legislative assembly to increase oil royalties owed to the states from 5 to 20 percent. Though Sarawak agreed to [drop the royalty hike demand](#) in late 2019, similar demands have been made in [Sabah](#). Sarawak has spread its feathers further, setting up its own state-based oil and gas company in the form of [Petros](#) (Petroleum Sarawak Berhad). Sabah and Sarawak have also demanded the federal government restore the state rights that were part of the original 20-point agreement and 18-point agreement that contained the terms upon which the two states respectively agreed to enter into the new entity of Malaysia when it was formed in 1963. The documents include points on religion, language,

education and more controversially, the right of secession if the agreements are not honoured. Most recently, the PN government announced that a special council would be [set up](#) to monitor the implementation of the Malaysia Agreement 1963 together with the Sabah and Sarawak state governments, which includes cash and royalty payments over oil and gas resources.

The Petroleum Development Act 1974 vests Petronas with the entire ownership, and the exclusive rights, powers, liberties and privileges of exploring and exploiting all petroleum resources in Malaysia. Given such powers, it has been central to the debate surrounding oil-producing states and their demand for greater royalties, oil rights and hence, federal-state tensions. In May this year, national oil company Petronas [agreed to pay US\\$470mil \(RM2b\) in sales tax](#) on petroleum products to Sarawak, settling a longstanding dispute between the two parties. However, state officials later said Sarawak is still pursuing the case, and seeking nearly US\$680mil. Around the same time as PH’s public pursuit of Sarawak MPs in early June, the CEO of Petronas was announced as having left his position prematurely before the end of his contracted tenure. It was [reported](#) that he had resigned in opposition to the planned tax settlement, with which the board and management allegedly also disagree. The previous Petronas position was that the sales tax was not valid, as it appeared under the constitution’s Federal List and could not be double-taxed (Petronas already pays petroleum income tax to the federal government). In the Petronas CEO’s [outgoing message](#), he called on his colleagues to “always stick to their principles” amidst “conflicting

choices and difficult decisions.” In what seems like a closing chapter to this hostile exchange, it was announced on 3 August that Petronas [withdrew its appeal](#) over its failed judicial review against the Sarawak state government.

Petronas is primed to be an increasingly attractive source of funds to the central government. Malaysia’s fiscal deficit is expected to grow as a result of tanking energy prices and pressure to introduce even more stimulus packages following the COVID-19 pandemic. The federal government has already announced several stimulus packages amounting to US\$70b, which represents 19% of the country’s US\$270b economy (although only US\$10.5b in direct fiscal injection). The economic fallout of COVID-19 is projected to be severe, with the unemployment rate reaching 5%, the highest in 30 years. Although this is similar to trends throughout the world, Malaysia was already facing a slowing economy prior to the onset of the pandemic. Petronas had already contributed a special additional dividend of US\$7 billion to the 2019 budget, and it is expected that it will be called on to further finance social assistance packages and programmes under the pandemic response.

Petronas has already [expressed caution](#) over paying special dividends to the government, claiming it needs to take into account its own funding needs, debt obligations and future growth investments. Given the political pressures faced by Prime Minister Muhyiddin, in which he needs to shore up support for his currently one-seat majority in parliament, he may need to depend on goodwill from Gabungan Parti Sarawak,

which controls the Sarawak state government. There is speculation that Muhyiddin is potentially [open to increasing royalty payments to Sarawak and Sabah](#)—which the Petronas board and management are said to oppose—on top of having approved the sales tax payment to Sarawak.

In the most recent incident that underscores the impact of the long drawn-out political uncertainties on national politics, the Sabah state government fell at the end of July when [13 state assemblypersons defected](#) from the pro-PH ruling coalition to support former Sabah chief minister and PN-linked Musa Aman. Several assemblypersons [claimed](#) that they were offered millions of ringgit to defect. Musa [announced](#) he had the simple majority to form a new state government, but the state’s Governor [consented](#) instead to a state dissolution. Snap polls will be held in Sabah within 60 days. Although the political context in Sabah varies quite significantly from that at the national level, the outcome of its upcoming state elections will invariably be an indicator of national popular sentiment. This will also be observed as a precursor to the Sarawak state elections that must be held by September 2021, as well as to the general election that although must only be held by May 2023, is widely speculated to be called for before the end of 2020.



brought to question the role that states can and should play.

Recently, the PN government has recognised state rights to some degree and in certain instances, possibly for

## Long-term implications for federal-state relations

Malaysia's government is operating on extremely shaky ground with a razor-thin majority. Its position—and therefore that of the 13 state governments—continues to be at risk. Although governed by a Federal Constitution that sets out legal and institutional safeguards protecting state and local government rights against federal intervention, Malaysia's policy decision-making and resource distribution is more heavily influenced by political dynamics than by the legal-constitutional set-up or evidence-based data. In concluding, how have the two shocks to the country's system over the past few months impacted federal-state relations in Malaysia?

The political crisis seems to have embedded centralisation trends even further. Malaysia's first-past-the-post electoral and political party system tend to favour the victor solely. Because of the "winner takes all" outcome, there are rarely any in-built incentives for political leaders to reform the highly fiscally and administratively centralised structures.

Even so, the government's highly centralised response to COVID-19 has

political reasons. In announcing the Conditional Movement Control Order, Defence Minister Ismail Sabri said that Sarawak was [exempt from Act 342](#), as the state has its own Protection of Public Health Ordinance 1999 which allows the state minister responsible for public health to regulate movement in and out from the infected local area. When announcing that in principle all non-Muslim places of worship can operate, Minister Ismail Sabri also said this was [subject to approval by state governments](#), which would issue their own guidelines.

These recent statements seem to indicate a slight alteration in the way the federal government approaches what had been hitherto considered a national crisis. In recognising the roles and responsibilities of state governments, it ought to pay attention to growing trends of subnational autonomy around the world. The state of Kerala in India has been touted as a successful case study in the managing of COVID-19, with a key factor being India's relatively less centralised public health system in which, unlike Malaysia, states have the autonomy to manage their own public health system. [India's investments in public health](#)

[infrastructure](#) from as early as 1969 resulted in every village having a health centre with doctors, nurses and paramedics. During the COVID-19 outbreak, the local government and community-driven village councils have nimbly supported locals requiring healthcare assistance.

In Malaysia, neither the political turbulence nor the pandemic crisis have significantly changed federal-state relations. However, the pandemic has raised some interesting questions as to what states can do to assert their constitutionally-backed authority. Although in the end—after several days of resistance—all states complied with federal instructions in the case of the CMCO, states with a larger independent resource base took pandemic management into their own hands in a number of interesting ways as outlined above. This indicates that if local governance autonomy is to deepen and decentralise further in Malaysia, this will most likely emerge through a bottom-up approach rather than being devolved from a top-down process.

COVID-19 has also shown that sharing public policy between different levels of government can result in positive outcomes. The federal government will not necessarily resist if the initiative of state governments do not conflict with the centre's goals, and if both parties agree on a common shared outcome.

The future of central-local relations in Malaysia will continue to be directly correlated with the future of political parties and their electoral outcomes. States will continue to benefit only if they are politically aligned with the federal government at the centre. Even those

states which are politically aligned will have to carefully wade their way through the complexities of political party and coalition factionalism, which continue to be murky. In the battle for national leadership, being on the side of the eventual victor will weigh heavily on machinations even at the state level.

Fluid negotiations between parties and coalitions are expected to continue, amidst rumours that a general election will be called before the end of 2020. All of this will inadvertently impact upon central-local relationships. Mahathir Mohamad's move of [announcing](#) he would form a new party on 8 August, followed by [defections](#) from several Bersatu leaders in Selangor and Johor are early indications that the political uncertainty will continue to have a direct impact on the stability of state governments, even in the immediate future.

Unless states can leverage their political influence the way Sabah and Sarawak have done, and to a certain extent, Johor, Kelantan and Terengganu, as well as highly developed Selangor and Penang, prospects for state and local autonomy are not bright. Nevertheless, as shown by the responses of states to the COVID-19 crisis, one way of achieving autonomy is to reinterpret existing constitutional provisions and challenge formal boundaries in innovative ways. While leadership within strong political parties from the centre is still what prevails in Malaysia, there is room for state-level lawmakers to push for relatively greater measures of decentralised governance in public policy and public administration.

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