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Revisiting the Athi Nahappan Report

By Steven Sim & Koay Su-Lyn
pg16 & 73

Will Local Government Elections Erode Malay Rights?

By Saifuddin Abdullah
pg79

Local Democracy: More Politics or Less?

By Liew Chin Tong
pg 82

The Malaysian Federation: A Contradiction in Terms?

By Zairil Khir Johari

21

How Incompetency in Local Governments Help to Preserve Political Hegemony in Malaysia

By Wong Chin Huat

25

Strength from the Grassroots: Practices of Participatory Governance

By Chow Kon Yeow

35

It's All About the Money

By Rajiv Rishyakaran

43

BRT: Rethinking Expensive Public Transport Projects in Malaysian Cities

By Wong Shu Qi

51

A Lucrative Dirty Business

By Lam Choong Wah

62

Contents

	Executive Director's Note	3
Section 1: Evaluation of Local Authorities in Malaysia		
	History of Local Government Election in Malaysia	6
	Revisiting the Athi Nahappan Report Part 1	16
Section 2: Separation of Powers Between the Three Levels of Government		
	The Malaysian Federation: A Contradiction in Terms?	21
	How Incompetency in Local Governments Help to Preserve Political Hegemony in Malaysia	25
	Double Decentralisation: The Way Forward for Sabah	30
Section 3: Governance in Our Local Authorities		
	Strength from the Grassroots: Practices of Participatory Governance	35
	Communications as a Key Competency	39
	It's All About the Money	43
	Understanding Local Authority Financial Reports	46
Section 4: Running Our Cities & Towns		
	BRT: Rethinking Expensive Public Transport Projects in Malaysian Cities	51
	An Aged-Friendly City For All - Rich or Poor	54
	The Truth behind Solid Waste Management and Incinerators	59
	A Lucrative Dirty Business	62
	The Road Less Taken	68
Section 5: Revisiting the Local Government Election		
	Revisiting the Athi Nahappan Report Part 2 : Recommendations	73
	Will Local Government Elections Erode Malay Rights?	79
	Local Democracy: More Politics or Less?	82
	Beyond Local Government: Making Kuala Lumpur a State	85
	Kuala Lumpur – City-State of the Future?	88

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Executive Director's Note

By Steven Sim

Executive Director, REFSA

Local authorities are fertile grounds for innovative policy solutions

Prime Ministers give speeches, mayors solve problems, as someone once said. Perhaps this is too simplistic, but the fact is a mayor or rather local authority is the level of government most proximate to the people. It has to deal with issues of immediate concern, from garbage collection to ensuring drains are not clogged, from issuing business licenses to managing hawkers, from approving development of a township to the renovation of a private home.

But for some reasons, local authority is rarely discussed - except perhaps in the context of problems. Yet throughout Malaysia (and the world), local authorities have been the bastion of innovation in governance.

The first ever public housing in the country was the creation of the Labour Party-led George Town City Council in 1961. And of course, the country was literally schooled in the idea of electoral democracy first at the local authority level through local government elections, the first of which again was the George Town Municipal Council in 1951, followed by the Kuala Lumpur Municipal Council in 1952 which saw the first partnership of the Alliance, (the predecessor to the current ruling regime).

Today, Penang local councils, for example, introduced the first ever smartphone app system in the country, for public-government interaction and consultation. The Seberang Perai Municipal Council reviewed its cleaning contracts and as a result, not only improved efficiency but also created over 2,000 new job opportunities for locals which pay above the minimum wage instead of the previous arrangement of hiring lowly-paid migrant workers who were performing below par.

Councils all over Malaysia are becoming a hotbed of innovative policy solutions that affect the daily lives of the people. The Petaling Jaya City Council developed new best practices to engage the wider community when it came to physical development sub-

mission. The current, outdated, federal law only requires consultation with narrowly defined interest groups. The Subang Jaya Municipal Council used to have a parking rotation system in the Taipan commercial area to help resolve the terrible congestion in the area. All these are innovations which directly and immediately impacted the lives of the people.

Diminished prominence of local authorities

Yet, most unfortunately, these initiatives were rarely, if at all, publicised. Mostly because, with the lost of local election in 1965, local authorities lost its identity so to speak. Somehow, instead of three layers of governments, the local authorities being the third tier had subsumed into the other two tiers of government. Local authorities are now seen merely as a part of government, like a government department instead of being a government per se. As such, local authorities rarely get highlighted. Local councillors rarely get the publicity now so lavishly conferred on politicians at the state and federal level. Local initiatives are not as glamorous as "big picture plans" tabled at the state or federal level. With the demise of local election, local authorities were relegated to the tiny corner of the public life only to come into focus whenever there is a garbage problem, as if they are a government department which only deals with garbage, negating its

other roles in licensing, public health, development planning and control, provision and management of public amenities such as recreational facilities, street lights, paved roads, community halls and others, traffic managements etc.

Local democracy will curb racial politics

Racial politics is a disease which plagued us for decades now as a nation. How do we get rid of the disease? A more vibrant local democracy today in Malaysia will eventually help to move our country beyond racial politics.

This is because, firstly, local democracy focuses on practical issues on the management of cities and towns. These issues, such as solid waste management, maintenance of public amenities, town planning, traffic management etc., transcend racial rhetorics. These are also service-oriented issues where policy makers and administrators will be evaluated based on a more objective criteria of capacity rather than mere populist rhetorics.

Secondly, national politics can easily fan group sentiment by creating a false sense of uniformity across different communities over different geographical settings, through projecting the insecurity of one part as a problem of the whole. At the national level, due to the

distance, where it is harder for people to exchange notes on certain matters, identity markers are more abstract and fluid, and are easily manipulated.

Local democracy on the other hand, is very much limited to a relatively smaller area with an objective boundary whether geographical or political. Thus in the current situation where 70% of Malaysians live in urban areas and 70% of our local authorities cover areas where no one single race composed of more than two third the population, hence some sort of plurality in the community, extremist politics and ideologies will find it hard to take root. Thus for example, a candidate for local election cannot afford to take hardliner stance in such a multiracial setting, especially when his or her performance will be easily measured objectively.

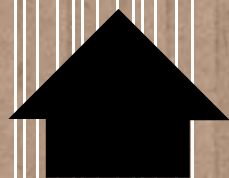
Local democracy is fundamental to our maturity as a democracy

Finally by way of conclusion, REFSA would like to offer an important perspective on local authorities abstracted from the historic Athi Nahappan Report, which will be discussed in further details in this Quarterly:

"Local government...is the kindergarten of democracy. It is the Government nearest to the people. Grassroot democracy is cultivated here. If democracy is understood by the people at this level and if they participate in its exercise they will understand it better at the state and central level" (Para 524 (iii), p. 99)

A brief introduction of REFSA Quarterly

In this newly reformatted REFSA Quarterly, we seek to reignite the conversation about local authorities. This first volume demonstrates our unashamed bias and interest for local authorities and its relevant issues. We hope that beyond a magazine or a book, we present this as some sort of primer, an introduction to the issue which may appeal even to those already familiar with them as well as to the newly initiated. The contents were crafted especially to reflect some of the most important and pressing issues faced by our local authorities today as well as to provide a context to those seeking to understand these issues. Of course for everything which one says, there are many more things which have to be left unsaid due to many constraints. Just because we do not say it does not mean we do not think it is unimportant. Again, we present this REFSA Quarterly as another platform to bring our conversation on various issues to another level.



Section 1: Evaluation of Local Authorities in Malaysia

History of Local Government Election in Malaysia

By Steven Sim & Koay Su-Lyn 6

Revisiting the Athi Nahappan Report Part 1

By Steven Sim & Koay Su-Lyn 16



History of Local Government Election in Malaysia

By Steven Sim, Executive Director, REFSA / MP for Bkt Mertajam and Koay Su-Lyn, Analyst, Penang Institute

As Malaysia's first local government began in Penang over two centuries ago, the State has a long tradition of participatory governance which should offer some important lessons for the future.

Penang's first political protest

In 1795, nine years after Francis Light landed on Tanjong Panagar and renamed it Prince of Wales Island (or Penang), he passed away. Philip Manington replaced him as Superintendent of the new settlement and appointed John McIntyre as Clerk of Market and Scavenger.

McIntyre's primary role was to value "houses and shops in the bazaar belonging to natives, according to the extent of the ground, for the support of the Police and for cleaning, making proper drains, and keeping the town in order and free from nuisance".

The residents of George Town were furious that so much power to decide on taxation was given to a single individual, that they protested and petitioned to Manington, demanding instead that "the most equitable mode to adopt would be that a Committee of Gentlemen be appointed to fix a valuation on every particular house and that so much per cent on that valuation be levied".



That was the first ever record of a political protest in Penang (and Malaysia), with the demand for democratisation and local representation in municipal governance.



Many refused to pay their taxes, in the spirit of "no taxation without representation". As a result, the condition of George Town deteriorated so badly that there were proposals to move the administrative centre to the south of the island, where Bayan Baru is today (this proposal was later abandoned, due to defence factors and municipal issues).

Over two centuries years later, as the people of Penang again call out for the revival of local government elections, we examine the history of local government and how over time, its powers and influence have been eroded.

The Committee of Assessors - the earliest systematic form of municipal governance in Penang and Malaysia

In 1830, the last Governor of Prince of Wales Island, Sir Robert Fullerton returned to England after the demotion of the settlement from a Presidency having its own Governor to a Residency reporting directly to the Presidency of Calcutta in India. This radical shift of power to India took effect in the same year Fullerton left.

A correspondence carried by the Singapore Chronicle on 12 April 1832, two years after the loss of Penang's Presidency status, described the state of Penang at the time as "dull, stupid and languid. Society, there has been none, since the dissolution of the Government and the breaking up and departure of the gay civilians. At best it can be looked on as a military colony; those that remain of the community not having, as formerly, a voice in the land..."

Fullerton himself believed that the drastic government budget cuts, and the lack of a strong local government due to over-centralisation of power would eventually lead to a situation of municipal neglect.

Indeed one of Fullerton's main contributions was the institutionalisation of the first municipal entity in the Prince of Wales Island, the Committee of Assessors. Although such Committees were established way back in 1796, these were ad hoc advisory committees without regulatory power. These committees were headed by a civil servant and consisted of prominent European and native ratepayers of the island. They were created to deal with specific matters and existed only for as long as the said matter persisted.



For the people, by the people

The Committee of Assessors was set up between 1786 and 1814 by Sir Robert Fullerton to deal with specific matters. The Committees were headed by civil servants and consisted of Penang's local and European ratepayers.

The names of some of these committees reflected the nature and scope of their functions, for example, the Committee established in 1806 to investigate the abuses of police magistrate Paul Kellner, the first German in Penang.

- Committee of Assessors on obtaining a revenue from trade (founded 1796)
- Committee of Assessors for the valuation of property for assessment (1800)
- Committee of Assessors on Kellner the police magistrate (18 August 1806)
- Committee of Assessors on Kellner the police magistrate (22 August 1806)
- Committee of Assessors on the regulation on the market (8 September 1806)
- Committee of British Inhabitants of Prince of Wales Island (1806)
- Committee of Assessors on constructing water works and supply (1806)
- Committee of Assessors on maintenance and building of roads and bridges (1807)
- Committee of Assessors on Land Holder of Penang (1807)
- Committee of Assessors to formulate regulations on road users (1807)
- Committee of Assessors to abolish slavery (1808)
- Committee of Assessors on the fire of 1814 (1814)
- Committee of Assessors to guard against the possibility of future fire (1814)
- Source: (Nordin Hussin, 2004)

Members of the 1796 Committee were probably nominated by the Government and their focus was trade and not exactly municipal issues. On the other hand, the 1800 Committee of Assessors whose goals were raising local assessment and building as well as upgrading the road and drainage system can be properly considered as the first municipal body in Penang.

Appointing the Committee of Assessors

The Municipality of George Town centenary book published in 1966 by the City Council of George Town, stated that, "The procedure adopted was for the Lieutenant-Governor (at that time, Sir George Leith) to call a public meeting at which the leading inhabitants elected a Committee from among themselves. This was in 1800 and the body so formed, to meet under the presidency of a government office, was called the Committee of Assessors." In other words, the ratepayers representatives were elected into the 1800 Committee.

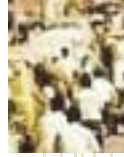
Among non-civil servant members of the said Committee included the wealthiest businessmen and landowners on the island, James Scott and David Brown. These were the same people who opposed taxation only five years ago. Now, using their vast influence and wealth, these "gentlemen" gained position in a body set up to advise the government on taxation!

Historian, Nordin Hussin (2007), wrote that "in practice the Europeans and natives nominated by the government to sit in the Committee of Assessors were wealthy", suggesting that there were no elections but rather that ratepayers were co-opted into the Committee by the Government.

We are inclined to accept the account of election in the centenary book by the City Council of George Town as reliable, mainly because the Prince of Wales Island Gazette on 31 December 1808 (vol. 3, no. 149) also contained the following Government advertisement:

"Europeans and native landholders in the different Districts of the island, with the exception of George Town, are requested to assemble at the Custom House on Thursday next the 23rd instant at 12 o'clock at noon for the purpose of electing a committee to device the necessary funds for repairing and keeping the roads and bridges...(signed) Thomas Raffles, Secretary to Government, Fort Cornwallis, 16th July, 1807"

The Government advertisement clearly indicated that elections were (sometimes?) held to appoint non civil-servant members of the Committee of Assessors. However, we cannot possibly establish if this was the only method. Chances were, both election and co-option were employed as the Governor saw fit. But even when there were elections, it was not based on the principle of universal suffrage. Instead, the representatives were elected among "leading inhabitants" and "gentlemen": wealthy, usually but not always European, landowners and merchants on the island.



From Committee of Assessors to Municipal Government

The 1800 gathering convened by Leith described above, was perhaps the first local government election ever to be held in Penang and Malaysia, albeit an informal one unlike our modern day election process.

Prince of Wales Island, however, would have to wait another 31 years after the first Committee of Assessors was created for such bodies to be formally sanctioned by the Government through a legislative mention.

It would be another 30 years, in 1857, before a formal local Government election was held in Penang.

Local Government reform in England and British India

The question of governing cities and towns effectively was also one of the major debates taking place in England during the later years of the Industrial Revolution.

Boroughs or towns in England were administered by what was known as municipal corporations. Before 1835, these corporations, created by Royal Charter, consisted of self-appointed



prominent traders and wealthy landowners. Many of these were self-serving Councils with narrow political interests and the job of maintaining the borough was largely neglected. This coupled with the social changes brought by the flood of people and capital into the cities resulted in unprecedented filthy urban conditions.

Following the Whig Government's reform of parliamentary election in 1832, a Royal Commission was formed to investigate the conditions of the local governments. Among others, the Commission stated that:

"Corporation funds are frequently expended in feasting and in paying the salaries of unimportant officers. In some cases, in which the funds are expended on public works, an expense has been incurred beyond what would be necessary if due care had been taken. These abuses often

originate in negligence ... in the opportunity afforded of obliging members of their own body, or the friends and relations of such members."

The result of the investigation was the Municipal Corporation Act of 1835 which provided for local government elections by ratepayers as well as a more professional, transparent and effective administration of the corporations.

Following the reform in England, British India also went through several reforms in municipal governance. Notably, in 1847, Act No. XVI introduced municipal elections to appoint four out of seven members of the Board of Commissioners responsible for the upkeep and improvement of Calcutta. The background to this was partly due to the dissatisfaction of the European inhabitants to be taxed by the earlier form of non-elected municipal government, the Town

Committee.

From India, it was only a matter of time before modern local government spread further east towards the Malay Peninsula.

Local Government reform in the Straits Settlements

In 1839, legislation was created to formalise local governance in the Straits Settlements but it was strongly objected to by the leading traders as well as the Governor of the Settlements himself because the Act, vested all powers in Bengal, India. Once again, the locals, or at least the elites, wanted to have more say in the running of their local government, especially on matters of taxation.

Hence, on 25 March 1848, a new Act was passed for the creation of Municipal Committees, each consisting of five ratepayers to be appointed by the Government of the Settlement. A 1848 news report from the Penang Gazette about a fire demonstrated the lack



Local Government elections – a history of apathy?

The people's reaction towards this first-ever experience of electoral democracy was lukewarm to say the least, and a newspaper article from The Straits Times on 11 December 1906 described a by-election:

"In spite of the fact that [the candidate] Dr. P.V. Locke was unopposed, no fewer than 153 people went to the poll and recorded their vote for him. Dr. Locke was therefore declared duly elected."

Another Straits Times news article on the election of

the same personality, who was a Penang-born medical doctor and the 15th Captain of Penang Free School (1885), stated:

"The total numbers of votes given to Dr. P.V. Locke, on Thursday, at the election of a Municipal Commissioner for the years 1909, 1910 and 1911 was ninety-three."

Local elections were obviously not very heated or well-attended affairs!

of effectiveness of the Municipal Committee:

Four fire-engines were on the ground, but two only would act and the very inadequate supply of water materially interfered with their usefulness.

Clearly further reform of the local Government was needed. In 1856, Act No. XXVII, being "An Act for appointing Municipal Commissioners and for levying

The 1856 Act marked two very important events in Malaysian history:

Firstly, the Municipal Commission was touted as the direct predecessor of modern local government in Penang and Malaysia. In fact, up to 1950, the local government of Penang was still called by that name. The current Penang Municipal Council (MPPP) can trace its establishment to 1857.

Secondly, it also marked the first suffrage election in Malaysia. Although only expatriate ratepayers and Straits-born British subjects were able to register to vote, it was nevertheless the first ever democratic right to vote in Penang and Malaysia to be guaranteed by the law.

If anything, this was indeed a major step forward in the history of local democracy, self-governance and political awareness for Prince of Wales Island and British Malaya. However, this was to be a short-lived experiment and in 1913 local government elections came to an end.

An Abrupt End: Termination of Elections in 1913

The passing of the Municipal Ordinance of 1913 by the British reversed the democratic achievements of 1856 as it abolished local elections and reintroduced a system of nominated representation.

The reasons for abolition were not clear but one factor, namely the changing demography of the Straits Settlements, may have contributed to it. Yet, even mild demand for representation of the immigrant communities in the government was met by the argument that the majority of the local population consisted of 'transient aliens who showed no interest in their government and who would be an utterly unpredictable electorate'. In any event, it was claimed that there was limited local support for elective representation.

In the light of the new arrangement, the George



rates and taxes in the several stations of the Settlement of Prince of Wales Island, Singapore and Malacca" was created.

The Municipal Commission was to have up to five members, with the Resident of each Settlement as the head. Two members were appointed by the Resident and Governor of the Straits Settlements respectively while the rest were elected by ratepayers. The Act came into effect on 1 January 1857, allowing for the first ever suffrage election to take place simultaneously in Prince of Wales Island, Malacca and Singapore.

Town Municipal Council consisted of seven commissioners inclusive of the President, all appointed by the Governor of the Straits Settlements on the advice of the Resident Councillor who remained 'tactful in choosing able men who reflected the views of the community or interests and who were popularly recognized as inevitable choices'.

Allocation of seats to certain communities and associations however, reflected the remnants of the old system of limited representation to a considerable extent. For instance, in 1923, the number of commissioners were increased by two to allow representations by the Eurasians and Muslims. Seats were once again increased the following year to accommodate the Penang Chamber of Commerce, the Chinese Chamber of Commerce, the Straits Chinese British Association, and the Straits Settlements (Penang) Association. In 1934, another seat was allocated to the Chinese Town Hall. The total number of Commissioners by then had increased to thirteen. Such allocation of seats remained until 1951 except for the Straits Settlements (Penang) Association which was discontinued in 1946.

The cessation of local elections in 1913 signalled the misguided idea of stifling democracy for the sake of "efficiency" and "stability", usually with the excuse that the social conditions or the people were not ready. Unfortunately, such colonial political orientalism proved to be a pattern and restricted local democracy in Penang and Malaya.

The Beginning of a New Dawn: Revival of Elections

After the withdrawal of the Japanese occupation army from Malaya in 1945, there arose a new, heightened awareness of self-governance among the people of the land. By June 1948, the Malayan Communist Party (Parti Komunis Malaya) began waging war with the newly-returned British administration; the first insurgency lasted until 1960.

There were widespread protest, rallies and even a nationwide hartal in 1947 against the British, the first major national protest movement in the history of Malaysia. Emergency law was declared in Malaya, many anti-colonist organisations were banned and dissenters were arrested or exiled. The British realised that they could not continue to resist the tsunami of political change with high-handed methods.

Britain was saddled with an enormous debt from waging the two world wars, and slowly began to lose control of the Empire. Decolonisation was inevitable and the newly elected Labour government of Clement Attlee supported measures to give independence to British colonies. India, Great Britain's most prized jewel in the East, was granted independence in 1947. In Malaya, the clarion call for self-governance was beginning to be heard from villages, towns and cities all over the country.

Local Authorities Election Ordinance of 1950

In 1950, the Local Authorities Election Ordinance was passed, to once again allow the people to elect their own local government, after its cessation for almost four decades.

The new legislation empowered the Malay states and the Straits Settlements to grant constitutions and formulate laws for the registration of voters and the conduct of elections. However, matters regarding candidates, election agents, corrupt and illegal practices remained within the purview of the 1950 Ordinance.

It was under such conditions that the then Chairman of the Municipal Elections Committee of George Town, Dr. Lee Tiang Keng discussed the desirability of introducing elections back in George Town's municipality with the division of Penang into three electoral wards – Tanjung, Kelawei and Jelutong.

A report was submitted to the Settlements' legal adviser and it was decided that elections would be

held in December 1951.

This transition from a bureaucratic to a popularly-elected Municipal Council marked an unprecedented move to popularise the novel idea of mass electoral registration, training of registration and polling staff and more crucially, the holding of the first universal adult franchise elections in Malaya – a precursor to the nation's first general election in 1959.

The outcome of the 1951 Municipal elections

The final figure of voters for the 1951 Municipal elections stood at 14, 514 and the distribution of voters for each ward was as follows, Tanjung: 7,782, Kelawei: 2,439 and Jelutong: 4,293. The figures appeared arguably unsatisfactory as it was estimated that qualified municipal voters totalled between 50,000 to 60,000. However, the elections reflected a sense of political awakening amongst the locals

who were starting to show interest in the democratic process.

Campaigns were carried out with little attempts to inflame communal passions (like what is happening today) and political meetings in Penang's open spaces and parks marked an innovation never seen previously. Indeed, the whole atmosphere and process served as an objective lesson for a people soon to run their own country independently.

While political parties were new to Penang, the elections witnessed a dramatic victory for the Penang Radical Party led by intellectuals and professionals like, Dr Lim Chong Eu, C.O Lim, Dr Menon, Nancy Yeap and Oliver Phipps.

More interestingly, in an era where gender equality was uncommon, two women stood as candidates in the 1951 election, Nancy Yeap from the Radical Party and Che Wanchik Binti Abidin, from UMNO. Both contested in the Kelawei ward. Yeap received 1,142 votes and was duly elected while Che Wanchik received 516 votes.

The new Municipal Council consisted of nine elected and six appointed councillors and the President, appointed by His Excellency the High Commissioner of the Nominated Council. In 1956, the George Town council became a fully elected council, the first in Malaysia. Five wards were created with each to elect one councillor each year and the President was elected from and by the Councillors themselves.



George Town – Malaya's first city

On 1 January 1957, George Town was granted a city status by Letters Patent granted by Queen Elizabeth II. This received legislative recognition by virtue of the City of George Town Ordinance No. 50 of 1957. Consequently, the Municipality of George Town was styled the City Council of George Town. Similarly, the Conduct of Elections Authorisation of 1958 empowered the Election Commission to conduct local government elections in Penang. By virtue of the new legislation, elections were conducted for the council until 1961.

Innovation, service, transparency – the revitalised Council under Labour

Towards the late fifties, Penang became the only state in the Federation to have a fully developed, elected local government. Not only did the City Council of George Town provide its own services in three areas of public utilities – public transportation, water and electricity – the Council was staffed with professionals: accountants, architects, engineers, health officers and lawyers. By then, local enthusiasm was overwhelming and local government elections were highly anticipated seasons in George Town.

Shortly after Independence, the Labour Party wrested the control of the Council from the Alliance. Not only did it serve the longest, it revolutionised the Council to suit local needs. In encouraging openness and reducing petty corruption, a Public Complaints Committee of Councillors was established to receive public complaints in any spoken language. A multilingual system was practiced within the council although English was still used for drafting of minutes. Councillors were permitted to turn up in clean, white short sleeved shirts to identify with the large working class and the grassroot demography. The concept of racial

harmony was also observed as a Deputy Mayor would conventionally be selected from a different racial group than that of the Mayor.

Healthcare centres and clinics were established for the first time in poor areas, followed by the presence of mobile dispensaries. At street level, regular drain inspections were conducted with blockages removed and dustbins emptied daily. Overgrown grass and tree branches were trimmed regularly. A slum clearance scheme was established and new homes were raised on stilts in the Malay dominated Kampung Selut along Sungai Pinang, a slum and flood prone area. The Council also constructed the People's Court residence along Cintra Street, the first ever public housing project in the country.

Under the Labour Party, the Council became the richest local authority in the Federation with sufficient financial and administrative resources to run its own operations, (despite big government spending to improve public amenities and municipal condition). Its annual budget was larger than the State Government's and it had more professional staff on a higher salary scale than the State Civil Service. In short, the George Town council by then had not only matured structurally but also attained a level of financial autonomy and independence from the State.



Unfortunately, its promising days were numbered.

The George Town Enquiry and the demise of Elective Councils

D.S. Ramanathan who was elected Mayor from 1958-59, rocked the Council during a meeting in June 1963 with accusations of serious malpractices. He alleged fraud in the renovation of Chowrasta

Market and several malpractices amongst the Town Planning and Building Development Committees. He also raised the impropriety of the whip's legal firm, Lim Kean Siew & Co. in representing clients in their dealings with the City Council. While the accusations could have been motivated by bitterness due to dissatisfaction with the leadership more than actual abuses, the episode tarnished the Council's integrity.

A Commission of Enquiry was called to investigate Ramanathan's allegations and by March 1965, local elections nationwide were suspended under the Proclamation of Emergency, following the Indonesian Confrontation. The Seremban Council was suspended following corruption charges and a year later, Johor became the first state to abolish local governments. Inevitably, these events led to a negative public perception of local councils, which were unfairly portrayed as a stumbling block against national unity. Moreover, the Labour-ruled Council's constant 'rebellion' against the Alliance-led State Government only heightened existing doubts towards the effectiveness of three-tiered government.

One major disagreement took place when the Council boycotted the Malaysia Day celebrations in 1963, citing the formation of Malaysia as a neo-colonialist concept and the inadequacy of the United Nations' Cobbold Commission. The Council refused to entertain the order by the State to decorate the streets.

The State Secretary finally had to assume the power to control the City Council via a newly created state legislation to ensure the streets were decorated! Tensions heightened once again when a village of Chinese squatters was evicted. While existing State plans required the demolition of the village, the Council thwarted the plan and supplied the villagers with piped water instead. With these little acts of rebellion, the State now had good reason to reduce the Council's power.

Eventually, the City Council was suspended to pave way for the establishment of the George Town Enquiry. Hearings began in July 1966 with the report completed in May 1967. Suspension then was of temporal nature under the Municipal (Amendment) (Penang) Enactment 1966.

More importantly, the subsequent passing of the City Council of George Town (Transfer of Functions) Order 1966 which transferred all functions of the Council to the Chief Minister was found to be ultra vires since 'every municipality is to be administered by Councilors selected according to the constitution of that municipality' according to the Federal Government's Local Government Elections Act. The City Council boldly took the State to court over the matter but the final bid failed with the Federal's amendment of the Act.

Ironically, the Commission of Enquiry did not recommend the continued suspension of the Council contrary to general expectation. It similarly found 'no case of corruption sufficiently verifiable for prosecution' as alleged by Ramanathan. However, by the time the suspension period ended, the State Executive Council decided that the suspension should be continued indefinitely and saw no reason to resurrect elected Councils. In due time, the Gerakan-led State Government stretched the 1966 State Enactment to suspend all remaining local authorities in 1971.

The subsequent passing of the Local Government Act 1976 put the final nail in the coffin of local government elections and thus brought an end to an era of animated local democracy in Penang and Malaysia.

Since then, local government, subsumed under the authority of the State and Federal government, has been diminished in its historical and political identity. People no longer think of the municipal authority as a government on its own, but rather as a department of either the Federal or the State Government.

The third tier of government, which traced its existence back over two centuries ago in Penang, was effectively lost, leaving behind only a layer of bureaucracy, the provision of municipal services and the collection of some forms of taxes - a far cry from the golden days of the George Town City Council of the late 50s and the early 60s.

Denial of restoration of local government elections: Where to now?

In 2012, 47 years after the last suspension of local government elections, Penang rallied once more to revive its lost inheritance. The Local Government Elections (Penang Island and Province Wellesley) Enactment 2012 was passed in the Penang State Assembly to allow the Elections Commission (EC) to conduct local government elections in Penang. The bid however, fell into a legal dispute when the EC failed to respond to any requests to conduct such elections.

Subsequently, the Federal Court rejected Penang's application to restore local government elections on the ground that the State Government lacked the jurisdiction over such matters as it falls under the purview of the Federal Government, as enshrined under the Local Government Act 1976.

Despite the abrupt demise of elective councils, the desire for a third vote, stemming from the establishment of the Committee of Assessors to the matured council under the Labour Party, continued. Local government elections or rather its absence, continues to be the elephant in the room in Malaysia's democratic discourse.


The fact is, the local authorities, even in their present form, exercise vast power concerning the daily affairs of the people and retain control over taxes such as property assessment, business licensing, and

development charges. As such, there ought to be a democratic process to ensure local policy-makers are accountable for their actions and serve the interest of the people.

The Penang State Government has over the past two years, exhausted all legal avenues to restore local government elections. A new state legislation was enacted, an executive decision was undertaken and the judiciary was consulted concerning the matter, and yet all these failed to bring back our historic, and much cherished democratic tradition.

It is crucial now that while the next strategy is being devised, local governments must be made more accountable and transparent. Even without a third vote in the conventional sense, the local councils must be radically opened up to involve the participation of the people in decision making processes, such as budgeting and development planning. In other words, there must be a more vigorous efforts to ensure the flowering of local democracy.

All is not lost, as various schemes today, enhanced by technology, can help us to rethink how to enlarge the participation of the people in local decision making. The introduction of the Citizens Action Technology (www.cat.betterpg.com) system in Penang for example, allows for faster, simpler and more efficient interactions between the people and their local authorities.

Penang is the birthplace of local democracy in Malaysia. As the focus of the world has shifted from nation-states to cities and urban centres, it is crucial for us to reimagine how we run our cities and set them on par with global standards. Despite the numerous challenges to make our cities better, we should take heart from Penang's history as the birthplace of local democracy in Malaysia. This is an important legacy that must not be lost. 

This article first appeared in Penang Monthly.



Revisiting the Athi Nahappan Report

Part 1

By Steven Sim, Executive Director, REFSA / MP for Bkt Mertajam
and Koay Su-Lyn, Analyst, Penang Institute

Lyn locali and democracy is often driven by concerns at the lowest level. Yet local elections, which were once the outlet for political engagement in Malaysia, have been absent since 1965. Why? And how has this affected the nation?

Local elections as the foundation of democracy

Local governments have existed in Malaysia for centuries before the European powers arrived. In the most traditional form of government in Malaysia, there were local chieftains governing sub-regional units such as 'daerah' and smaller ones such as 'kampung'.

The significance of local elections in Malaysian history cannot be overstated, and it is interesting to note how the local government elections of the 1950s prepared our infant nation for democratic self-governance. One matter of particular significance was the accidental partnership between Selangor UMNO and MCA during the 1952 Kuala Lumpur municipal election despite objections from party leaders at various levels. The cooperation which eventually won the election, also marked the birth of the Alliance ('Perikatan'), the predecessor of today's Barisan Nasional.

The importance of local elections has since become a distant memory, and 2015 marks the half-a-century since the demise of local government elections in Malaysia.

Malaysia in the 1960s

Although the independent Federation of Malaya was built upon the foundation of local democracy, by the 1960s, new dynamics appeared which affected how the country perceived local governments. The newly formed Alliance central government had found it increasingly difficult to govern and achieve its version of national unity because the opposition, mostly centre-left leaning and populist parties, were winning local elections in key state capitals and urban centres throughout the country such as George Town, Ipoh, Malacca, Seremban and Kluang.

In one incident, the tussle between the central government under the Alliance and a local government controlled by an opposition party was apparent. At the end of the Emergency, then Prime Minister Tunku Abdul Rahman gave instructions for the Federation flag to be displayed on 31 July 1960. The George Town City Council, then ruled by the opposition Socialist Front, refused to comply. This led Penang State Government to convene a special assembly to amend the Municipal Ordinance empowering it to compel the City Council to conform on matters of national or state importance.

The end of the Emergency also ushered in a new mood for economic and rural development through the introduction of the First and Second Five-Year



Plans (1956-1965). Nation building was ongoing and the country was beginning to chart its own path. The conflict between the central and the local was therefore seen as a major stumbling block to all such efforts.

Finally, in March 1965, exactly 50 years ago, local government elections nationwide were suspended. The official reason given was Konfrontasi Indonesia-Malaysia. In the state of semi-war declared by Indonesia by semi-war in fierce objection to the formation of Malaysia in 1963, as he viewed it as a neo-colonial invention for prolonging the imperialist agenda in the region. A new proclamation of Emergency was declared throughout the country on 3 September 1964 and following that, local government elections scheduled for 1965 and 1966 were suspended.

Between 1965 and 1966, at least five major local authorities were also taken over by their respective state governments. These were the Seremban Town Council (taken over on 23 July 1965), the Johor Bahru Town Council (17 April 1966), the Batu Pahat Town Council (4 May 1966), the Penang City Council (1 July 1966), and the Malacca Municipal Council (21 September 1966). On 1 February 1966, the Johor State Government also completely dissolved the Minyak Beku Local Council. The justification for the takeover and the abolishment of these local authorities ranged from allegations of malpractices, which were later proven to be unsound, to the incapability of the local authorities to discharge their duties.

The Athi Nahappan Royal Commission of Enquiry

It was in such a time that Senator Athi Nahappan together with seven other eminent persons were appointed by the Yang Di-Pertuan Agong to a Royal Commission of Enquiry to Investigate into The Workings of Local Authorities in West Malaysia. The Terms of Reference of the Royal Commission were, in its own words, to find out:

- (a) whether the (then) present categories of local authorities served any useful purpose, and, if not, why not? and,
- (b) whether they could be improved in their present forms and, if so, how? and,
- (c) if they could not be effectively improved, what structural reforms were necessary?

The chairman of the Royal Commission, Athi Nahappan migrated from India to Penang at a young age and studied at Bukit Mertajam High School. He was a UK-trained lawyer and founding member of the Malayan Indian Congress (MIC). In 1974, Prime Minister Tun Abdul Razak, in recognition of his vast experience and knowledge of the legal system appointed Athi Nahappan as Law Minister.

For three years, the Commission was engaged in its duty, which included holding nationwide multilingual public enquiries where 331 memoranda was received from "State Governments, local authorities, political parties, government officers, public bodies, ratepay-

ers and individuals". All 373 local authorities at that time were surveyed. Due to the political nature of the enquiry, all political parties including the opposition were invited and they gave their views. The Commission even allowed political detainees to appear before them in Kuala Lumpur and Melaka.

One peculiar incident was the refusal of the Johor state government to appear before the Commission as witnesses because it felt that being a party to the National Council for Local Government, through which the Commission was appointed, the state government was a superior body to the Commission and hence by protocol, should not appear before the latter. The Commission report stated that the views of the Johor state government "were heard orally, informally and without declaring our hearing as an enquiry. As such the views expressed by the Johore State Government have not been officially recorded in our Record of Evidence."

The Royal Commission Report, more popularly known as the Athi Nahappan Report was published in 1968. It was truly encyclopedic in its breadth and depth not only on the workings of local authorities in Malaysia but also stood in its time as a detailed analysis of local government in general. For a government report, it is impressive in that even Lim Kit Siang, a major opposition figure, considered it to be "one of the most

comprehensive and erudite reports ever published by the Government of Malaysia".

To give a snippet of its insights, consider the treatment of the Report on the subject of state capitals.

Local authorities in state capitals

It is interesting to note that specific in the Royal Commission's Terms of Reference was the instruction to investigate the usefulness of "local authorities in which the Capital of a State is situate...". Even the Commission itself gave special attention to this point, dedicating a chapter of its report to "State Capitals". Nonetheless, the Commission also noted that the singling out of State Capitals in the Terms of Reference "as no more than a particular drawing of our attention".

In the larger context of the then socio-political development in Malaysia discussed above, this can only be seen as an attempt by the federal government to remedy the contradiction between Alliance-central and opposition-local.

It should be noted that starting from the Kelantan state government, all state governments at that time, whether or not their capitals were governed by the




opposition at the local level, proposed that the state capitals should be administered by the state authorities as how Kuala Lumpur as the federal capital was administered by the federal authority.

In other words, the state governments were of the opinion that state capitals should be administered by a local authority consisting of a nominated head, such as a Commissioner (who is today called "Datuk Bandar") in the case of Kuala Lumpur, and a nominated Advisory Board in place of elected councillors. Nominations to these positions were to be done by the state authorities.

It is not difficult to see the state governments' logic. No state government would want to lose the administrative control of its capital, which typically plays a strategic role, economically and politically, within the state. Indeed the George Town flag incident was cited as an example where conflict occurred due to the lack of centripetal coordination resulting from opposing political agendas between the local, state and federal governments.

The Royal Commission, after considering numerous factors, rejected such proposal and maintained that "State Capitals should have local authorities with elective representations...". However, it also recognised the need for cohesion between the different au-

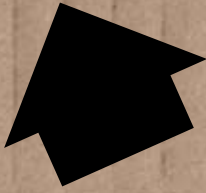
thorities on matters of state and national importance. On the question posed by the George Town flag incident, the Commission concluded that it was not a major pattern in the local-state-federal relation and "the fact that the State Government could [intervene] clearly indicates that the power was there for the State Governments to invoke and to avert the kind of embarrassing situations that arose".

In coming to such conclusion, the Commission had deliberated ably at great length, various arguments and factors, including actual circumstances of the federal-state-local relationship presented at that time. As such, the chapter on "State Capitals" in the Athi Nahappan Report, if not the whole report itself, is highly recommended for reading for a succinct lesson on local democracy. 

This article first appeared in Penang Monthly.

See part 2 at page 73





Section 2: Separation of Powers Between The Three Levels of Government

The Malaysian Federation: A Contradiction in Terms?

By Zairil Khir Johari

21

How Incompetency in Local Governments Help to Preserve Political Hegemony in Malaysia

By Wong Chin Huat

25

Double Decentralisation The Way Forward for Sabah

By Chan Foong Hin

30

On 16 September 1963, a covenant was forged between the peoples of Malaya, Sabah, Sarawak and Singapore, resulting in the creation of a new sovereign nation called the Malaysian Federation.

With a new name and new country came new promises of collective security, inclusive development and equitable sharing of the land's natural wealth. These promises were enshrined in a sacred document upheld as the supreme law of the land – the Federal Constitution.

The euphoria over the new federation compact was not to last, however. Internal and external tensions began to mount as the ruling Alliance coalition found it was losing ground to left-leaning parties at the local government level. In 1964, racial riots broke out twice in Singapore, precipitating the eventual amputation of the city-state the following year. As matters came to a head with open confrontation declared by Indonesia, the Alliance Federal Government moved to suspend local government elections on the pretext of preserving peace during a state of emergency, albeit with a promise of future reinstatement.

By the early 1970s, the dispute with Indonesia and the Philippines had subsided and the Alliance had evolved into the larger Barisan Nasional (BN) coalition. Having subsumed the opposition State Governments of Kelantan and Penang under the new grand coalition, and thus consolidating the ruling party's grip on the Federal and State legislative assemblies, there was no longer any appetite to risk losing control over the local councils, as had been the case prior to 1965. And so, despite recommendations to the contrary by the Athi Nahappan Royal Commission of Inquiry Report, the third vote was once and for all buried with the abolishment of local government elections.

And so began a creeping trend of centralisation of power that would eventually see the appropriation of more and more control over local and state functions by the Federal Government. This has rendered the Malaysian Federation to be a contradiction in terms.



The Malaysian Federation: A Contradiction in Terms?

By Zairil Khir Johari,
MP for Bukit Bendera



The most centralised Federation in the world?

Certainly, at least in name and appearance, Malaysia is a federation. Structurally, our country is composed of federated states united under the umbrella of a federal government, much like other federated counterparts such as the US, Germany, India and Australia.

Like other federations as well, the division of powers between the state and federal governments is clearly spelled out in the Federal Constitution. Such a power-sharing arrangement typically entrusts states to administer over areas that involve everyday life, such as public transport, solid waste management and public cleansing. Meanwhile, the federal government

usually takes charge of state matters such as foreign relations and external security.

Constitutionally sealed, this federation contract between the federal and state governments is very rarely altered. Hence, provisions such as the requirement of a two-thirds majority in Parliament are put into place in order to prevent arbitrary changes from occurring.

However, nearly five decades of unbridled dominance by the Alliance and subsequently the BN Federal Government has seen the two-thirds leverage abused time and time again. As a result, control over areas of governance that are typically the purview of local or state-level authorities have now been arrogated to the Federal Government. For example, the Local Government Act 1976 has been amended over the years

to allow the Federal Government to assume control over the administration of sewerage, as well as the management of solid waste and public cleansing.

On top of that, the Federal Government also controls many other sectors such as public transport, utilities, education, religion and even social welfare. Beginning 2016, even public toilets will be centrally managed.

Therefore, it would not be a stretch to say that the Malaysian Federation could possibly be one of the most, if not the most, centralised federations in the world.

Over-centralisation increases corruption, inefficiency and ineffectiveness

To say that the BN Federal Government has, over the last five decades, dishonoured the original spirit of the federation covenant is to understate the matter. The fact is that the systematic agenda of centralisation has resulted in the over-concentration of power in the hands of the Federal Government. This has three direct consequences:

- Firstly, over-centralisation increases the scale of corruption and rent-seeking. For one thing, it is obvious that the Federal Government tends to usurp power in areas that involve management contracts, licensing, as well as massive infrastructure projects. At the same time, national projects are also typically larger in scope and much more lucrative. Therefore, the more powers are centralised, the more patronage can be dispensed from the centre and the bigger the pay-out.
- Secondly, it is not very difficult to imagine that it is simply inefficient to manage everything centrally. This is especially evident in areas such as public transport, which requires local knowledge, direct accountability, and more importantly, immediate responsiveness. It is for these reasons that public transport in

almost every country in the world is usually managed by local authorities. In Malaysia, however, this role is played by the Land Public Transport Commission, an agency under the Prime Minister's Department.

Unsurprisingly, results have been less than efficient. When even bus route changes or bus stop placements require Federal approval, one can imagine how painfully frustrating the process of improvement can be. In Penang, a recent bus route change in Bukit Mertajam took more than a year for approval to be given. Accountability is also blurred in such situations, as citizens have no way of demanding direct electoral accountability for such a local matter.

- Thirdly, over-centralisation of power has also rendered state and local authorities ineffective. How is a state government supposed to fulfil its mandate when it has hardly any control over the governance of local services such as public transport, solid waste management and public cleansing?

To make matters worse, even attempts to innovate are thwarted by the Federal Government. As an example, the State Government of Penang a few years back made an offer to pay existing bus operator RapidPenang to provide free bus services throughout the entire state during peak hours. This was a radical idea to encourage bus ridership with the aim of reducing car congestion in Penang. Unfortunately, for reasons only known to themselves, the Ministry of Finance-owned bus company decided to reject the offer of guaranteed income.

Another major handicap for state governments is the acute lack of financial independence. As so many sectors have been centralised over the years, it may not come as a shock that the Federal Government's share of national expenditure is more than 90%. In contrast, the Penang State Government's 2015 budget is a mere 0.4% of the Federal Budget, even though Penang is the second most industrialised state in Malaysia.



This too, is a typical of federations, where there is usually a revenue-sharing arrangement that would ensure the redistribution of taxes from the federal government to state coffers based on a formula that takes into account a state's share of contribution as well as its level of development.



In the Malaysian model, states only receive a Capitation Grant, a State Road Grant, as well as minor grants for local councils. To illustrate, the amount of Federal grants received by the state of Penang adds up to roughly RM150 million a year, which is equal to about 10 to 15% of the state budget. This effectively means that state governments are left with hardly any revenue base besides income from properties, lands, mines, forests and local council assessments.


As if the states are not constrained enough, a 1976 amendment to Article 111 of the Federal Constitution also prevents State Governments not only from taking loans but also from providing loan guarantees for state corporations, except with approval from the Federal Treasury. Hence, states are not only severely limited in financial options, they are effectively beholden to the federal government where large-scale infrastructure investment is concerned.

Return to the spirit of federation

It is clear that the practice and spirit of federation has been perverted in Malaysia, so much so that the Federal Government has effectively created a monopoly over almost every area of significance. This has not only broadened the scope and scale of corruption and enabled more patronage powers from the centre, it has also caused administrative inefficiencies that cripple the functioning of local and state governments. Worst of all, the centralisation agenda has clearly produced a political outcome – solidifying the ruling party's total grip on power.

Moving forward, a carefully planned formula of decentralisation is required in order to reconfigure our structure to one that more closely resembles the original ideals of our federation contract. At the same time, proper delegation of powers will also empower Malaysians with more accountable governments at the state and local levels.

Administratively, efficiency can be improved through decentralisation in many sectors such as education, public transport, social welfare, solid waste management, sewerage and public cleansing. Financially, a more equitable tax redistribution regime is required in order to ensure state governments can function independently. This will promote greater autonomy and subsequently competition between states, to the benefit of the people.

In the end, a properly devolved system of governance would ensure more efficient, effective and accountable government, thus fulfilling the promises of greater democracy and socially equitable development that are embedded in the federation contract inked five decades ago. 



How Incompetency in Local Governments Help to Preserve Political Hegemony in Malaysia

By Dr. Wong Chin Huat
Fellow, Penang Institute

Restoring local democracy should be seen from a wider perspective of rationalising three-tiered governments in Malaysia.



Why multi-tiered governments?

The idea of multi-tiered governments is basically grounded on the recognition that extensiveness of stakeholders matters in the quality of decisions.

Hence, certain decisions are best made nationally, when economies of scale need to be maximised or uniformity is paramount for political or non-political reasons. For example, currency, measurements, defence and diplomacy are normally governed by national governments even in decentralised countries such as Switzerland and Belgium. On the other end, certain decisions are best made locally to maximise representation, responsiveness and accountability such as waste management and basic government services.

If the country is small, then it may only have national and local governments. The example that we can best relate to, is Singapore which as a city state has a powerful and efficient national government and many town councils with boundaries coinciding with parliamentary constituencies and overseeing matters like housing. However, if the country is demographically populous, geographically extensive or simply culturally diverse, then there may be a need for one or more levels of intermediate government at state or province level.

Matters like education, policing, transportation and language that enjoy greater economies of scale require a higher degree of interest aggregation than at the local level. However, if these matters are decided nationally, there will not be diversity and internal competition between different parts of the country. Hence, many countries allow their states or provinces to govern these matters, with either full power in legislation and administration or just administrative power.

As many countries are the outcome of an amalgamation of



For UMNO and Malay nationalists, decentralised democracy is bad because even if UMNO controls the Federal government, it cannot dictate its whims to the states and cities.

smaller countries which become states or provinces, the state or provincial governments would have substantial power to accommodate the diversity. If these countries are federations, then the states and provinces are called “constituent units” enjoying “quasi-sovereignty”.

Theoretically, federations are more decentralised than “unitary states” which treat their sub-national governments as the branches and subordinates rather than partners of the national government. Empirically, decentralisation has become a trend that has swept across many unitary states including our neighbours, Indonesia and Thailand.

In other words, the apparent global trend is for a more balanced division of power between the multiple tiers of governments.

The anomaly of Malaysia's centralised federalism

It is unusual for Malaysia to call itself a Federation, especially as the country has not held local elections since 1965 (or since 1959, for the capital city of Kuala Lumpur).

The suspension, abolition and continued denial of local elections underlines two main challenges to the democratisation of Malaysia: first, the anti-competition mentality held by the ruling elites at both the Federal and State levels who dread to see opposition rivals emerge from the bottom; second, ethnic fear of minorities winning representation and substantial autonomy at the local level, which may then lead to intra-state and inter-state disparity.

However, the suppression of local democracy is more than an end in itself, but is also more a means to sustain the electoral one-party state put in place after the 1969 ethnic riots. This requires the suppression of both State-level competitors and parliamentary oversight of the Federal executive.

Taking it further, when unelected and unaccountable local governments under-perform, this is not an unintended failure, but it is a necessary condition to keep everyone busy and happy.

Three possible states of power division

To appreciate this “conspiracy theory” of governmental under-performance, let's consider these three possible states of division of power.



Functioning three-tiered governments

If Malaysia had chosen an optimally functioning system of three-tiered governments, we may have had a system like Australia which has less than 80% of our population despite having a land mass that is 23 times ours.

In Australia, Section 51 of the Constitution gives the Commonwealth (Federal) government powers ranging from, defence, foreign affairs, immigration, trade and commerce, currency, weight and measures to census and statistics. Whatever lies outside Section 51, known as “residual powers”, belongs to the States or Territories, and includes justice, consumer affairs, health, education, forestry, public transport, main roads and local governments.



Two-tiered governments with many states

It is possible to have a powerful central government and still keep local democracy alive. The solution is simple: two-tier governments which are small enough to function as local authorities.

The States and Territories also share policing power with the Commonwealth government. The Federal Police deals with drug trafficking, human trafficking, terrorism, high-tech crimes, money laundering, major fraud and other forms of transnational, multi-jurisdictional or organised crime, while the State Police forces take care of community policing, road safety, social order, search and rescue operations and emergency management.

The local governments are given powers over waste collection, public recreation facilities and town planning among others.

All the three tiers of Australian government are elected. Not surprisingly, different parties may govern at Federal, State and Local levels. For example, the Prime Minister of Australia, Tony Abbott is from the Liberal party, while the Premier of Victoria, Daniel Andrews is from the Labour Party and within the state of Victoria, the Lord Mayor of Melbourne, Robert Doyle is from the Liberal Party.

In other words, a decentralised democracy is unlikely to elect the same party into power at all levels of governments in all places. Inter-governmental competition and conflicts are bound to happen.

For UMNO and Malay nationalists, decentralised democracy is bad because even if UMNO controls the Federal government, it cannot dictate its whims to the states and cities. To prevent their ethno-nationalist ideals for Malaysia from being challenged, either from the urban centres in the Peninsula, or after 1963, by Sabah and Sarawak nationalists, a powerful central government is a given in the governmental design.

This allows for elected state governments to deal with issues such as, waste management, town planning, local policing and public transportation. And the central government need not worry about being challenged by powerful subnational rivals or regional separatism – if there are any local warlords from the ruling coalition or the opposition, they will be too small to pose a real challenge.

Beyond historical reasons, is it any wonder why Thailand has 76 provinces, India has 36 states and territories, Indonesia has 34 provinces, and China has 32 provinces, regions and territories? The more sub-divisions in a country, the smaller their average size in terms of population, area and resources to challenge the central government. (See Table 1)

This is however not an option for Malaysia because the states are the basis of Malay monarchies. The monarchies will not allow themselves to be sub-divided and “rightsized” just to ease the insecurity of the central government.

Table 1 Comparison of 2nd Tiered Divisions in Selected Countries

Country	Population (M)	N (2nd-Tier Divisions)	Average Population Size of 2nd-Tier Divisions	The Most Populated 2nd Tier Division	% of National Population
China	1340	32	3.13%	Guangdong	7.78%
India*	1240	36	2.78%	Uttar Pradesh	16.57%
USA	316	51	1.96%	California	12.13%
Indonesia	238	34	2.94%	West Java	18.09%
Thailand	64	76	1.32%	Bangkok	8.88%
Australia**	22	8	12.5%	New South Wales	32.10%
Malaysia	27	16	6.25%	Selangor	19.63%

*India had only 14 states and 6 union territories in 1956

** Excluding Jervis Bay Territories



The usefulness of “useless” local governments

When keeping a powerful centre is a must, and sub-dividing the states is out of the question, the natural solution is for the state governments to absorb the local governments, keeping the three-tiered governments in name, but an “indirect” two-tiered system in essence.

When voters cast a vote in state elections, they are voting for both the next State government and their offer of “buy-one-get-one-free” local council appointees.

While many Malaysians who are frustrated by unresponsive, unaccountable, inefficient and incompetent local councils may think that the local councils are “useless”, their “uselessness” – or to be fair, sub-optimal performance, notwithstanding many good initiatives by good people in the system – is “useful” to maintain UMNO’s party-state.

By performing at sub-optimal level, local councils create the need for political intervention by Federal and State lawmakers. As long as the heads of local councils remain political appointees and not elected representatives, even the election of local councillors will not change the system.

Constituency work carried out by MPs diverts their energies from studying laws and policies to effectively

scrutinise the Federal government.

If MPs are not expected to attend to local development problems, this would surely encourage more effective sessions, a higher attendance rate and better quality debates in Parliament.

For State Assemblypersons, constituency works do not exhaust them but instead justify their existence. While Federal lawmakers have more laws and policies than they can humanly scrutinise in the absence of Committees, State lawmakers may not be doing enough.

A quantitative analysis of Hansard by Nicholas Chan on the workload of the Federal Parliament and the State Assemblies of Selangor and Penang (easily the most hardworking ones) in 2012 shows a strong contrast.

On average, a Penang State lawmaker spent some three times as long debating an average bill than a parliamentarian, despite the State Assembly meeting less than 10% of the time than Parliament. The corresponding ratios for an average Selangor State lawmaker are 1.5 times and 20%.

It was the State Assemblies’ choice to not meet longer than 12 or 20 days. There were simply not enough bills for the lawmakers to deliberate, debate and vote on. In 2002, the Penang Assembly passed only one bill, the budget. This is simply because the States are given very little powers, aside from land, Islam and local government issues.



In the final analysis, if local elections are not restored, even party alternation at the Federal level will not usher in full democratisation.

No full democratisation without local elections

The need for local governments to be under-performing to keep the States relevant is a great obstacle to local democracy. On top of the anti-competition partisan mentality and the ethnic-centrism, the restoration of local elections is not welcomed because it will disrupt the entrenched political system.


This peculiar situation is both a threat and an opportunity. In the final analysis, if local elections are not restored, even party alternation at the Federal level will not usher in full democratisation. On the other hand, if local elections are successfully pursued, then our political system will be forced to adjust to devolve power from the Federal government to the State governments to avoid the hollowing out of the states. 

Table 2 Comparison of Time Spent in the Federal Parliament (Dewan Rakyat) and the State Assemblies of Penang

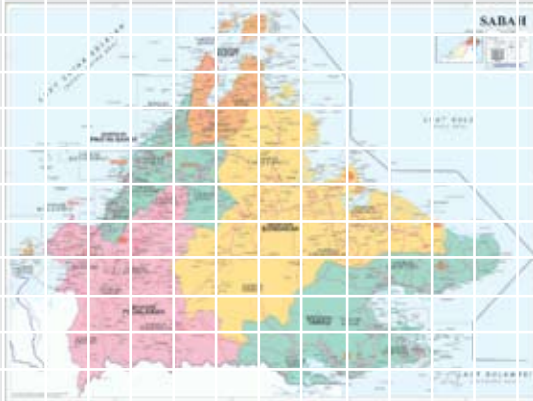
Assembly	Federal	Penang	Selangor
Days	68	12	20
Sessions	3	2	3
Average Sitting time (Per Day)	8 hours 22 min	6 hours 2 min	5 hours 40 min
Total Sitting Time	560 hours 58 min	47 houts 50 min	112 hours 55 min
No. of Assemblyman	222	40	56
Ministers and Deputies/ ExCO	68	12	11
No. of bills passed	44	1	5
Days per bill	1.55	12	4
Time spent on per bill*	10 hours 25 min	29 hours 50 min	16 hours 35 min

and Selangor in 2002

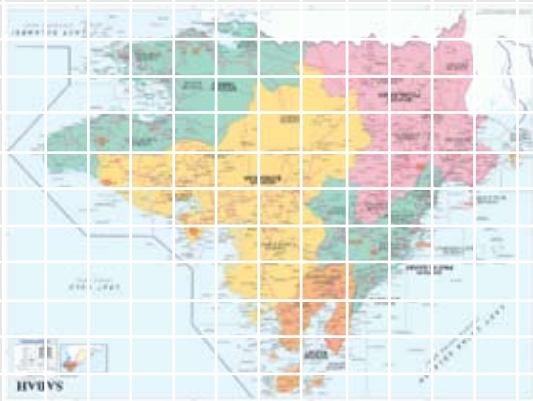
Table 3 Types of Bills passed in the Federal Parliament (Dewan Rakyat) and the State Assemblies of Penang and Selangor in 2002

Catego- ries	Money and Finance	Com- mercial, industrial and trade	Education, Healthcare, Youth, Sports	Housing, land, works and transport	Law and Order	Religion, culture, human rights, environ- ment	Others
Federal	11	5	5	4	8	4	6
Selangor	3	-	-	-	-	-	2
Penang	1	-	-	-	-	-	1

* Counted as part of Total Time Spent



Double Decentralisation The Way Forward for Sabah



By Chan Foong Hin,
State Assemblyperson for Sri Tanjong, Sabah

While thousands of citizens gathered at the 307 Rally to demand freedom for Anwar Ibrahim in Kuala Lumpur, Foreign Minister Anifah Aman was moderating a forum at University Malaysia Sabah, Kota Kinabalu to discuss the Formation of Malaysia 1963. It was an indicator of the two different political scenarios that exist in Malaysia: while bi-partisan politics has become more and more tense within the peninsular, a Federal Minister was able to work hand in hand with Borneo Nationalists (normally labelled as the Third Force in Borneo state politics), under the banner of "Sabah Rights".

The issue of State rights has remained relevant to Sabah's political discourse from pre-independence till the present day. Even though Sabah politics is dynamic and fluid in nature, the commonality across the political divide is advocacy for State rights, the only difference is in the approaches adopted by the different political camps.

The most radical proponent of State rights is the emerging movement of SSKM (Sabah Sarawak Keluar Malaysia) which has caught the attention of the authorities. Nine SSKM activists were arrested in Tuaran on 2 February 2015, and then another five arrested in Lahad Datu six days later. Some outspoken BN/UMNO backbenchers including, Ghapur Salleh (MP for Kalabakan) and Bung Mokhtar (MP for Kinabatangan) have warned the Federal Government for not doing enough to suppress the movement.

This strong campaigning for State rights is in fact a way of pursuing local democracy at the second tier. Ironically, local democracy at the third tier (local government) is not widely discussed in the State's political discourse. All of Sabah's challenges and problems are believed to be rooted in the current power structure which is concentrated in the Federal Government. Inequality, marginalisation and under-development which exist in Sabah are believed to be a manifestation of the imbalanced power structure between the State and the Federal Governments. Given the context of State vs Federal tussles, these sentiments are reflected as Sabah vs Malaya, and the rise of identity politics.

The fundamental issue of Sabah's identity is this: is the State one of three (Sabah, Sarawak and Malaya)? Or one of the thirteen states in the Federation? Is Sabah's National Day, the 31 August 1957 or the 16 September 1963? Are Sabahans fighting for the State rights which have been eroded over the years, based on past agreement including the 20 Points and IGC Report of Malaysia Agreement 1963? Or do we need to understand the past to better negotiate for the future?

What are Sabah's problems?

Unfortunately, going back to the past won't guarantee Sabahans any substantial meaningful changes for the future, as old documents can not guarantee that Sabahans' rights will not be betrayed.

As the former Chief Minister, Harris Salleh observed, "Sabah representatives do not speak up in Parliament or Cabinet meetings. If there is a problem, don't blame the Federal." As a Sabahan Harris has not done enough to protect the rights of Sabahans with his frequent "kowtowing" to the Federal Government.

There are two important watersheds in Sabah's political history. In 1976, our own Sabah State Assembly agreed to change the title of "Yang Dipertua Negara" to "Yang Dipertua Negeri", to honour Bahasa Malaysia as the official language and Islam as the

official religion of the State, which was a "betrayal" of the 20 Points. In that year, the Sabah State Government under the helm of Harris also agreed to a 5% oil royalty under the Petroleum Development Act.

Another important turning point took place in 1994. The failure of immigration control by the Parti Bersatu Sabah (PBS)- led State Government resulted in the irreversible Malayanisation of Sabah politics through the emergence of BN/UMNO as a dominant force in Sabah. This also marked the rise of Muslim Bumiputera seats in the State Assembly at the expense of non-Muslim Bumiputeras. Eventually, PBS made a dramatic return to the BN fold after nine years out of the political mainstream.

The rise and fall of political dynasties in Sabah teaches a universal lesson for any society - power tends to corrupt, and absolute power corrupts absolutely. The problem for Sabahans trapped in poverty is not only rooted in the imbalanced Federal - State power structure, but also in the over-concentration of power in one man's hands.

Traditionally, the Chief Minister controls the State's resources. For instance, land and forestry are under the jurisdiction of the Chief Minister's Department, and normally the directors for these two prominent authorities are the Chief Minister's right hand men. After 2003, when Musa Aman took over the CM's post, he also assumed the Finance Minister's portfolio. As a result, he held up to 63% of the entire State budget!

Proposed decentralisation reforms

Can the 20 Points, IGC report and Malaysia Agreement of 1963 protect Sabahans from the power abuse and corruption of a single man at the top? It is clear that institutional change or double decentralisation is needed to prevent further abuses of power.

Double decentralisation needs to take place at two levels. First, decentralisation at the Federal level by having a more empowered State Government; second, decentralisation at the State level by having

a more empowered Divisional Government.

1) Decentralisation at Federal level

In order to restore the spirit of equal partnership, the current status of Sabah and Sarawak as “States” should be upgraded to “Regions” with greater power. Elected representatives of the proposed Regional Government could be addressed as Regional Members of Parliament.

For instance, Buku Jingga Sabah, the election manifesto for Pakatan Rakyat Sabah has promised to return the power of education, health and transport to Sabah. Sabah should also decide on its own shipping policies (particularly the abolishment of the cabotage policy), utilities (to resolve the long due power and water disruption issues), immigration and security (to resolve the long standing issue of illegal immigrants).

The naturalisation of foreigners in Sabah should also be subject to the control of the Regional Government which will have the authority to issue identity cards (ICs). However, the responsibility for immigration should be shared by both the Regional and Federal Governments. Currently the naturalisation process is too lax and has seen large numbers of foreigners becoming “instant Malaysians”. Immigration control is also used by the current State Government as a political tool to suppress the Opposition by barring various politicians from entry, as in the case of MP for Seputeh, Teresa Kok who was prevented from entering Sabah recently.

Defence matters also need an urgent revamp to enhance security in Sabah. Today, 70% of Malaysia’s police and military personnel are deployed in the peninsula, with the remainder stationed in Sabah and Sarawak. A rethink of this ratio is needed especially given how much larger Sabah and Sarawak are compared to the peninsula, and in light of recent security breaches around the Lahad Datu area. A more balanced approach would make a difference as would the “Borneo-isation of security forces stationed in East Malaysia.

Can such a Sabah Regional Government be sustained? Yes. As the current Sabah State Government’s annual budget is around RM3 - RM4 billion, an additional 15% oil royalty can provide the Regional Government with a further RM3 billion. As stipulated under the 10th schedule of the Malaysian Constitution, Sabah is entitled to claim 2/5 or 40% of net revenue earned from the State. If we add the oil royalties to the RM4 billion (2013 figure) in Federal tax which was collected by the Inland Revenue Board from Sabah, and the estimated RM1.2 billion (2015 estimate) GST collected by Customs, the new Regional Government should easily be able to raise an annual revenue of RM8 billion.

2) Decentralisation at State level

In order to avoid power concentration in the CM's office, elected and accountable Divisional Governments would serve as sub-regional power centres for the different ethnic communities. To avoid an overlap of power, the new Divisional Governments would be responsible for land and forest matters, native laws, culture and language, and public work (to be shared control with the Regional Government).

In fact, there is not only a need but a historical precedence for the creation of Divisional Governments in Sabah, as Sabah is essentially a region created from territories ceded by two Sultanates – the west coast from the Sultanate of Brunei and the east coast from the Sultanate of Sulu – in the late 19th century.

Since then, the State capital has moved three times from Kudat (1882), to Sandakan (1883), to Jesselton (1946). During the days under British colonial control, each Divisional Head was addressed as a Resident. There are records of the Resident of Sandakan corresponding with the Resident of Perak to exchange their views on the immigration policy.

In fact, all pre-independence political parties in Sabah were established along divisional lines. For instance, the United National Kadazan Organisation (UNKO) is a Kadazan party from Penampang and Pasok Momogun is a Dusun/Murut party from the interior; these two local parties merged in 1964 to become a state-wide party known as Pasok Momogun Kadazan Organisation (UPKO).


Moving forward, decentralisation at local level will reduce the marginalisation and alienation of Sabahans which has been exacerbated by Federal policies, this will eventually also reduce the desire for secession. A Federated Sabah could also prevent the emergence of powerful leaders and warlords with secessionist ambitions such as the late Tun Mustapha Harun.

The way forward

Double decentralisation in Sabah needs to come together with Federal parliamentary reform to be effective. Most Sabah politicians would be in favour of over-representation in Parliament to have greater bargaining power at Federal level. Sadly, this only offers greater bargaining power for the "warlords" and makes it difficult to change the ruling party in Putrajaya.

In fact, the percentage of representatives from Sabah and Sarawak in the Lower House has not been diluted - in 1963, Sabah accounted for 16 MPs and Sarawak accounted for 24 MPs, out of a total of 159 MPs, or 25.16%. In 2008, Sabah accounted for 25 MPs, Labuan accounted for a single MP, and Sarawak accounted for 31 MPs out of a total of 222 MP, at 25.6%.

The real solution to this dead end is Senatorial reform in Upper House, where the fully elected Senators would represent State interests, with 1/3 power in the hand of East Malaysian representatives, they would have greater power to block any legislation that runs contrary to the Borneo States' interests.

As Kelantan continues to push for a Hudud agenda, it is timely for Sabahans to relook at the past in order to decide for the future. Let us advocate state rights in a more comprehensive way, not only to address the issue of imbalance between the Federal - State power structure, but also to protect our rights in the Upper House, and avoid any power abuse at State level, by returning local democracy to the Divisional level. 

Section 3: Governance in Our Local Authorities

Strength from the Grassroots: Practices of Participatory Governance

By Chow Kon Yeow

35

Communications as a Key Competency

By Yap Soo Huey

39

It's All About the Money

By Rajiv Rishyakaran

43

Understanding Local Authority Financial Reports

By Yap Lay Sheng

46



Strength from the Grassroots: Practices of Participatory Governance



By Chow Kon Yeow

Penang Exco Member,

Chairman of Local Government, Traffic Management and Flood Mitigation Committee

In 2008, after many years of being in the state opposition, Pakatan Rakyat (PR) won enough seats in the 12th General Elections (GE) to form the State Government of Penang. This was a watershed GE, and it was an entirely new experience for many of us, as we in Pakatan Rakyat (DAP, PAS, PKR) had lost every general election before that.

Under decades of the BN's autocratic rule, with many oppressive laws like the Internal Security Act and strongmen like former Prime Minister Dr. Mahathir Mohamed, many Malaysians had grown accustomed to one-party, top-down governance. Few believed that change was possible, let alone a meaningful democracy.

However, in 2008, the winds of change started blowing – and we were there to welcome it.

In 2013, the 13th General Elections was held in May and I am happy to declare that we won with an even larger majority – again earning the right to form the State Government.

We take the position that we have at least got some

things right in our first term – and look forward to governing in a just and socially responsive way in our second term.

Early on, the State Government adopted the CAT principles – Competency, Accountability and Transparency. These are very powerful nouns as each one has huge implications on our governing style. We have committed ourselves to these principles of good governance, in full recognition of the fact that it was the Rakyat who put us into power.

Giving citizens a voice

Since PR came into power in Penang, Penang has seen many new initiatives that consider, or incorporate, citizens' voices and democratic processes where possible. For example, one of our first priorities as a State Government was to try and restore local elections of municipal councillors, which was once practiced in Malaysia. Local elections were suspended in 1965 by the Federal Government, supposedly due to the armed confrontation with Indonesia. The right to the third vote was permanently taken away with

the federal Local Government Act of 1976.

To restore local elections, our Penang State Assembly passed the Local Government Elections (Penang Island and Province Wellesley) Enactment in 2012. However, much to our regret, the Federal Court ruled in August 2014 that this Enactment was unconstitutional and therefore Penang has no jurisdiction to hold local elections.

Nonetheless, despite this setback, we continue to ensure that the voices of civil society are represented and heard in governance. Since 2009, we have allocated seven local councillor seats for NGO representatives at both of the two municipal councils, MPPP (or the Penang Island Municipal Council) and MPSP (or the Seberang Perai Municipal Council). The State Government also engages regularly with a coalition of civil society NGOs, known collectively as

the Penang Forum, to seek the views and feedback of civil society especially on town planning and sustainability issues.

On that note, in order to solve the traffic problems in Penang, the State Government formed the Penang Transport Council, whereby professionals such as lawyers, engineers and planners who are also members of various NGOs, were invited to join the Council so that they could give their feedback. A concrete manifestation of the Penang Transport Council's work is the Penang Transport Master Plan, which aims to increase usage of public transport by 40% by 2030 and is now open for tenders. In addition, the State Government secured the services of an engineer, Ir. Lim Thean Heng – who was an active civil society member – to take up the position of Chief Coordinator for the Transport Master Plan.



How participatory democracy can make a difference

The Gender Responsive and Participatory Budgeting (GRPB) division pilot project, undertaken with MPPP, was at a low cost apartment housing scheme owned and managed by MPPP - known as PPR Jalan Sungai (PPR or Projek Perumahan Rakyat stands for People's Housing Project). PPR Jalan Sungai consists of two 22-storey blocks with 529 three-bedroom units. The average rental is RM110 (USD35) a month.

Meanwhile, GRPB's pilot project with MPSP was at the low cost apartment housing scheme known as PPR Ampangan. PPR Ampangan is a 10-storey block of 250 low-cost three-bedroom units, also with an average rental of RM100 (USD35) a month.

In general, the residents of PPR Jalan Sungai are poor and from the low-income group. Many are self-employed, petty traders, factory workers and unskilled labourers. When the GRPB team first visited the community, the place was generally very dirty, unkempt and in a mess.

The actual community project started in April 2012

and consisted of four phases. The objective was to understand the needs of the residents and to initiate a dialogue with the local government. It was hoped that this would strengthen local democracy within the low-cost flats, by encouraging the residents to participate in budget decisions and allocation of public funds. This process also aimed to empower residents to understand the meaning of shared ownership, and to assume responsibility for their own environment.

In the first phase of the project, the team carried out a baseline survey of all the residents living at the housing scheme. The residents were profiled according to age, sex, religion, occupation and ethnicity. The data was then analysed and the team was able to specify the number of men, women, boys, girls, elderly and people with disabilities.

This sex-disaggregated and age group-differentiated data was very important for the second phase, which involved forming groups for focus groups discussions (FGDs). The tagline adopted by the GRPB team is "Different people: different needs." Therefore, the formation of FGDs - based on separate peer groups of boys/girls (youth), men, women, elderly men and women, disabled men and women - is a conscious move to provide the right environment for different groups to raise their problems and needs, safely and without interruption.

Another kind of partnership is the State Government's funding for SUARAM, an NGO promoting transparency and accountability, to organize the annual Local Democracy Festival. Last year, we gave RM40,000, and this year we gave RM29,500 for the Festival. This is a purely grassroots-driven initiative lasting three months, aimed at promoting democracy and understanding of governance among the younger generation. The Festival's activities include a Youth Parliament, activism camps, exhibitions and forums – including one on the Penang State Budget.

From our experience with civil society, we in the State Government have learned that these partnerships do not have to be antagonistic. Constructive critique benefits everyone, and we can harness community energy and outside expertise to enhance our governance.

Empowering women in Penang

Another key initiative by the State Government, which I would like to emphasize here, is the formation of the Penang Women's Development Corporation (PWDC) in 2011. I note here that the PWDC's immediate predecessor was an NGO named 3Gs, short for the Good Governance and Gender Equality Society. Following discussions with 3Gs and women's NGOs, leaders and academics in Penang, the State Government committed to mainstream gender equality and social justice by setting up and incorporating PWDC under the State.

I will dwell at some length on the projects and activities undertaken by the State Government through PWDC, as it will highlight how we are promoting participatory democracy at the local level. One of PWDC's divisions

From the results of the FGDs, what emerged were issues like the need for better security, cleanliness, building maintenance, recreational facilities, etc. The third phase, involved the democratic process of voting on the key needs identified from the FGDs. All residents aged 10 and above were entitled to participate in the voting process, as long as the unit holder was not owing unpaid rental of six or more months. Voting was held over a three day period to ensure that residents were given ample time and opportunity to vote.

After all the votes were tallied, "Building Maintenance" received the highest number of votes, indicating that this was a major concern. "Cleanliness" also received a high number of votes.

The 4th and final phase, which is still ongoing, is the planning and implementation of actions to resolve the priority needs of residents. Now that the residents have voiced their needs, it becomes the duty of the local authorities to meet these expectations as per their capacity and limited financial resources.

From this exercise in participatory democracy, I'm happy to note a most positive development - which was the awarding of the cleaning contract to the Residents' Association (RA) of PPR Jalan Sungai. Before this, the cleaning contract was handled by external contractors, and there was little to no local ownership of clean-

liness. As of now, the cleaning jobs are done by the residents themselves - namely three men and three women cleaners to ensure gender balance (though it happens that the current supervisor is a man). This contract - now known as a "Community Contract" - is definitely a first for Penang and for Malaysia as well.

More importantly, since the contract was awarded in 2013, many visitors to the housing scheme have noted a marked improvement in overall cleanliness. In addition, the elimination of the external contractor helped MPPP to reduce cleaning expenses at PPR Jalan Sungai.

The vast improvement in cleanliness also inspired MPPP to come up with funds to provide the two blocks of flats with a fresh coat of paint. In line with democratic principles, residents were invited to vote on the colour scheme, and priority was given to the majority choice. Our latest step at PPR Jalan Sungai is to work towards awarding the security contract to the residents. The residents are also looking into the feasibility of forming a cooperative, so that all members may enjoy socio-economic benefits from projects such as the cleaning contract and the security contract.

Apart from that, MPPP and PWDC are working on converting several ground floor units at PPR Jalan Sungai into disabled-friendly units. Again, relevant stakeholders will be consulted.

is the Gender Responsive and Participatory Budgeting (GRPB) division. The GRPB team works closely with the two local governments – MPPP and MPSP – who also help to fund GRPB's projects.

Strengthening the participatory process

Aside from the success with the GRPB projects, we are still keen to extend the democratic and participatory process to the people of Penang.

We have started minor initiatives such as budget surveys, and both Councils have carried out online pre-budget surveys and community-level Budget Dialogues for a few years now. This year, MPSP even prepared the survey in hard copies in four major languages, to reach out to a much wider audience.

We are also working to develop and fine-tune the Penang GRPB model which will have the four phases described above, namely 1) resident surveys and data gathering; 2) focus group discussions; 3) definition of priorities and objectives, and 4) implementation of priorities and objectives. Monitoring and evaluation will be carried out throughout the process.

Using this model, both MPPP and MPSP have invited PWDC to participate in several up and coming development projects. In the near future, we are looking

forward to seeing the GRPB model further mainstreamed and practiced in local government.

One important lesson for us is that in the process of promoting participatory democracy, we must take care to uphold the principles of inclusion while being sensitive to power dynamics and accessibility issues within communities. In an ideal world, all citizens are equally able and empowered to voice their opinions and influence decision-making.

However, as we have learnt from GRPB, not everyone has access to these avenues. For example, men are more likely to dominate conversations and public forums as opposed to women. Residents who are poor, illiterate, disabled, elderly or even children and youth may not feel empowered to speak up. In a multicultural society like Penang, there may be language or cultural barriers which prevent engagement. Therefore, we must make special efforts to be inclusive, and to ensure that everyone has a fair chance to participate.

No doubt we have a long way to go towards full participatory governance, but I am encouraged by the successes of some of our initiatives to date. We remain committed to this journey, and to advance our agenda further.



** Adapted from a paper by YB Chow Kon Yeow at the SOCDEM Asia Conference on Lessons and Best Practices on Local Democracy and Governance in the 21st Century.*

Communications as a Key Competency

By Yap Soo Huey, State Assemblyperson for Pulau Tikus, Penang



In the face of rapid population growth, urbanisation and technology evolution, local governments need to be able to communicate effectively and efficiently with their communities or struggle to maintain livable cities.

Population growth and urbanisation are producing more complex cities

As population density increases, the outcomes of inefficiencies and failures in local government services become more noticeable by more people and need to be rectified more quickly to avoid a

buildup of associated problems. Basic services such as public cleansing, planning and enforcement need to be efficient and effective to cope with increasing demand.

Population density also increases the complexity of cities and townships, which in turn increases the likelihood that the needs of certain groups become neglected or receive less attention. These are usually people who are already more vulnerable or marginalised, such as the elderly, migrants, people with disability and minority groups. The neglect of differing needs often festers into social costs and negatively impacts the perception of livability in the

community.

In response to increasingly complex cities, the term “Cities for People” has become a philosophy adopted by many of the best cities. “Cities for People” is based on the principle that a city that caters for many different needs can only be achieved with enough flexibility in local government structure and guidelines and by establishing effective mechanisms to engage with many different groups and individuals.

Internalising a communications revolution

Beginning with the replacement

of traditional postage with the use of emails, and then the use of social media such as Facebook and Twitter, people have become accustomed to being heard more often and responded to more quickly. This lends to the expectation that local governments should also communicate with residents more frequently and thoroughly.

Whilst the adoption of online feedback/complaints portals and mobile applications seems a natural step for local governments to embrace, a deeper and more ingrained communications revolution is needed for local governments that have been more resistant to change. A local government that invests in modern communications technology does not automatically become good at communicating and engaging with its residents if it previously lacks openness and communications skills. Similarly, a population with widespread use of social media and modern communications technology does not automatically become adept at communicating and collaborating with its local government. Nurturing a culture of public engagement in local governance requires the maturing of both the population and the local government.

Prerequisites for a culture of public engagement that is needed to maintain today's complex cities include i) policies that compel commitment to openness and communication, ii) structural reforms to enable easy communication and collaboration between different government departments as well as for local government to communicate, understand and collaborate more effectively with residents, and iii) an emphasis on communication skills as a key competency in local government.

Barriers to openness

As a country that perpetuates archaic legislation such as the Official Secret Act 1972 and the Sedition Act 1948, Malaysia is a country with a tradition of paranoia and fear for communication and release of information. Efforts to increase openness such as the Malaysian Big Data Initiative (www.data.gov.my), the Selangor Freedom of Information Enactment and the Penang Freedom of Information Enactment remain conservative with room for improvement in terms of ease of access, regularity of updates, and range and depth of information released.

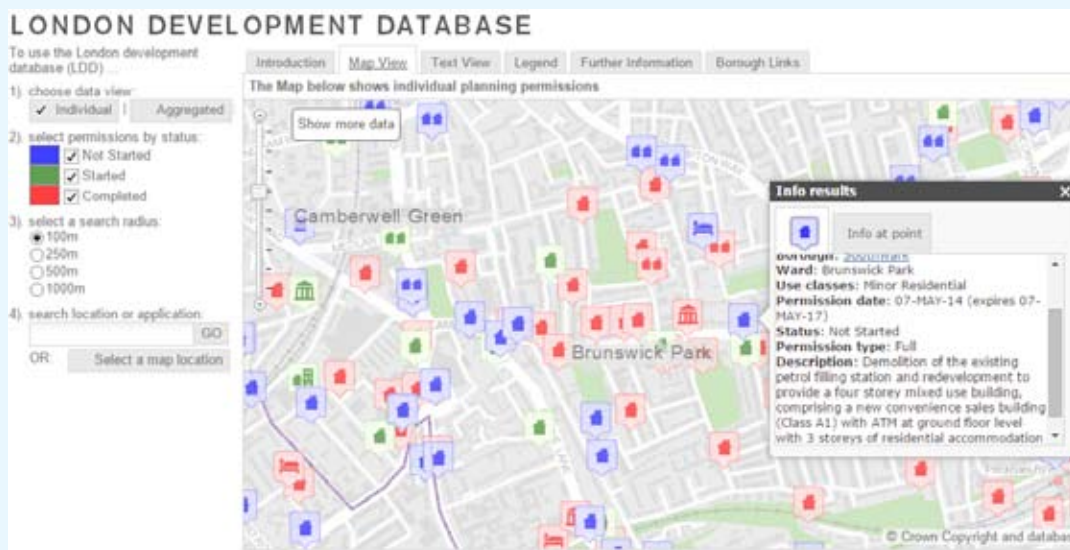
The lack of precedence in openness results in discomfort in sharing information due to uncertainty of how to treat privacy concerns, risks of misinterpretation and quality of data. This seems true for all levels of government whether Federal, State or local departments in Malaysia, and restrains effective communication between government and residents.

Therefore, against this backdrop, any local government that wishes to internalise a culture of communication and public engagement must first clearly demonstrate unequivocal commitment towards a policy of openness and communication in order to waylay traditional fears and discomfort.

It is noteworthy that the Malaysian Local Government Act 1976 provides for an openness of meetings and meeting minutes:

Section 23

"All meetings of the local authority



The Greater London Authority publishes data on development projects in London and pinpoints each development on a map. Each pin can be expanded for further details and status.

shall be open to the public and to representatives of the Press unless the local authority by resolution at the meeting otherwise decides: Provided that this section shall not apply to any Committee of the local authority unless such Committee by resolution otherwise decides.”

Section 27 (3)

“The minutes of all proceedings of the local authority shall be kept at the office of the local authority and shall at all reasonable times be open to the inspection of any Councillor or rate-payer of the local authority area and of any officer of the Government of the Federation or of the State in which such local authority area is situate, any of whom may at all reasonable times make a copy of any part thereof without fee: Provided that the minutes of the proceedings of any Committee shall not

be open to inspection by a rate-payer unless the local authority otherwise directs.”

However, despite the implied spirit of openness, local governments in Malaysia appear to have resolved to keep as much information as possible from the public or through various ways deter rate-payers who request for information. This is where a leadership and policy commitment that prioritises openness would make a difference.

Lessons can be learnt from the UK where Prime Minister David Cameron first demonstrated clear commitment to publishing data on central and local government spending in an announcement in May 2010 and quickly followed this up with a second announcement in July 2011 to release of huge

amounts of public data across a range of public services including health, transport and criminal justice.

In 2012, the UK Government released more than 8,300 datasets compared to 5,786 datasets released in the US. Local governments in the UK publicly publish detailed spending data including every expenditure above £500 and breakdown of details including supplier name, invoice number, transaction number, supplier ID, expense location and expense type. The UK reported early challenges in ensuring accuracy and quality of data, but found that a commitment to openness gradually helped improve data accuracy and quality, and resulted in improved government data and processes, improved public relations and attitudes toward government,

less requests for data, improved government services and greater economic growth (Kucera & Chlapek, 2014).

Breaking silos and new skills for effective collaboration

Whilst modern technologies create more channels for communication between residents and government, these technologies mostly enable sound bites and have limited utility for dialogue or increasing mutual understanding.


In order to address persistent problems or the complexity of modern urbanisation, experience of governments has shown the need to be open about problems and complications faced by the government so that enough citizens may understand and become willing to work with government to overcome these difficulties together. Similarly, governments (and particularly local governments because of their proximity to the people) must recognise the need for greater efforts to understand realities on the ground and complexity of different needs that may be missed when decisions are made "in the boardroom" without sufficient understanding or public engagement. Failure to do so may result in policies or execution that falls short of their objectives or lead to unintended negative consequences. The traditional "top-down" approach practiced by Malaysian local governments is

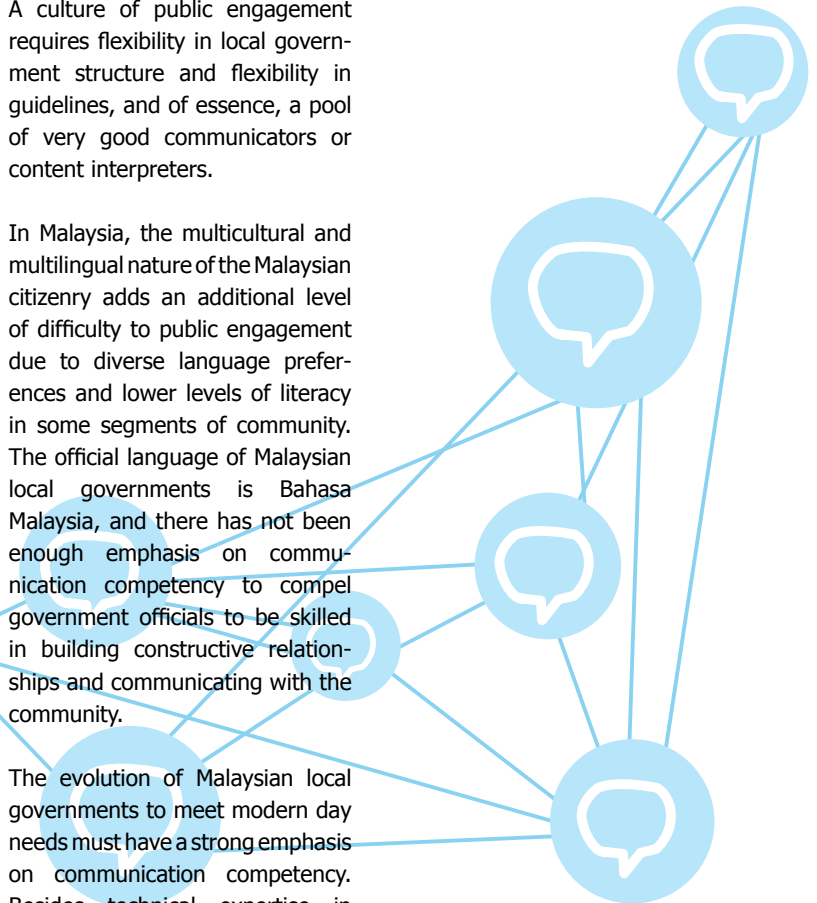
not adequate to cope with urbanisation in Malaysia.

Many cities such as Chicago, London, Croydon and Adelaide have established multidisciplinary placemaking teams to engage communities in solving persistent urban problems and work together on urban rejuvenation. Multidisciplinary teams including architects, engineers and communicators put their heads together to understand community needs, evaluate solutions and enable implementation of innovation urban solutions. A culture of public engagement requires flexibility in local government structure and flexibility in guidelines, and of essence, a pool of very good communicators or content interpreters.

In Malaysia, the multicultural and multilingual nature of the Malaysian citizenry adds an additional level of difficulty to public engagement due to diverse language preferences and lower levels of literacy in some segments of community. The official language of Malaysian local governments is Bahasa Malaysia, and there has not been enough emphasis on communication competency to compel government officials to be skilled in building constructive relationships and communicating with the community.

The evolution of Malaysian local governments to meet modern day needs must have a strong emphasis on communication competency. Besides technical expertise in

areas such as planning, health and engineering, it is also necessary for local governments to identify communicators who can "build bridges" internally between government departments as well as to manage communications with the public. Communicators include facilitators to manage stakeholder meetings and public consultation, as well as to improve effectiveness of print and mass media publications to achieve better communication and therefore a more knowledgeable and engaged public. 





It's All About the Money

By Rajiv Rishyakaran
State Assemblyperson, Bukit
Gasing, Selangor

All over the world, local governments have very different sets of responsibilities, and these responsibilities depend on various factors determined by higher authorities. This article examines how local governments in Malaysia and around the world fund their diverse operations.

The Malaysian scenario

Local governments exist and play a crucial role in managing our surroundings, with the aim of achieving the best possible quality of life for its residents. However, in doing so, local governments may differ from one another, having different priorities and even different jurisdictions, as may be specified by a higher authority.

This would include the methods of raising finances, a very crucial factor in how local governments function. The methods that are available to a local government to raise funds are often specified by a higher authority.



In some countries, that higher authority may be the national or federal government or in other countries the state or provincial government. In Malaysia, while both the Federal Government and State jointly govern the parameters in which the local government can operate, Federal Law, specifically the Local Government Act 1976 restricts the ways in which the local government can raise funds.

The restrictions placed upon local governments has led to the current situation where the single largest contributor to income is property taxes, which are the only taxes local governments can levy. Other sources of income include, business licenses, rental of council assets, fines and so on. We have become so used to this state of affairs in Malaysia, that the creativity of local government administrators has been restricted, even though there are other more effective ways to raise funding.

Effective fundraising

In the US, most local councils have sufficient autonomy and authority to run their own schools and police forces. This is very different to Malaysia, where the Federal Government has chosen to not delegate or devolve that power to the local councils, maintaining it the hands of the Federal Government.

Besides the authority that may be delegated to it by the Federal or State Governments, local governments may also choose to provide additional services to their residents, of which the cost will have to be borne by the residents themselves. An example of these services may include, free WiFi, sports facilities and so on, and examples of ways they are paid for may be fees to use the service, or from the general tax pool.

The ability for each local government to decide the level of service to provide and subsequently the level of taxation is what makes government local. It does not have to be uniformly applied throughout the nation or the state, but most importantly these decisions must reflect the will of the people.

Some countries use the same system of local government in Malaysia to raise taxes – property taxes based on the annual rental value of the property. For example, the rates in Australia and Singapore may be significantly higher than in most Malaysian local governments.

Local governments in the US have more diverse sources of income. Many charge a sales tax (similar to the GST which was implemented recently in Malaysia). Others charge various forms of property tax as well as income tax.

Higher revenues for improved services

Cities as effective fund raisers

The City of New York is a local government that maintains a fair balance of these three forms of taxation, receiving roughly the same amounts from property tax, personal and business income taxes (in Malaysia this is only levied by the Federal Government) and sales tax. The city of Toledo in Ohio however only derives 4.5% of its income from property tax; it derives the majority of its income or 69% from income tax.

It must be noted that there is no shame in cities receiving funding from their federal or state governments. After all, cities form part of the nation or state, and all income available to the nation/state also belongs to the people and their cities.

Although the city of New York is one of the richest local governments in the world, it still receives 27% of its funding from the Federal and State Governments (its annual budget is a whopping USD69 billion!).

Melbourne receives nearly AUD30 million of its annual income from grants and subsidies from the State and Federal Government.


Another valuable source of funding is the fees for various services, such as rental of city assets, parking fees, housing and so on. Melbourne earns AUD87 million from its parking fees and fines out of a budget of AUD398 million. This makes the amounts collected by Malaysian cities such as Subang Jaya a pittance in comparison!

Nottingham in the UK is another example of a city that derives more from fees than taxes, with over 60% of its income from fees related to services it provides such as education, adult social care and housing, while the rest comes from general taxation.

Besides these various ways to raise funds, it is also interesting to note that Malaysian cities collect and spend relatively little, compared to their Australian, British and American counterparts. In Malaysia, the Petaling Jaya City Council spends approximately RM470 per capita, while in Subang Jaya and Selayang, the figure is much lower at RM330 and RM269 respectively per capita.

In comparison, the city of Toledo, spends USD869 per capita. New York goes much further, spending USD8625 per capita. Over in Australia, Melbourne spends many times more than Selangor at AUD3400 per capita.

Even with regards to specific taxes paid, a comparison of property taxes between UK and Selangor reveals dramatic differences. A two-bedroom terrace house in a secondary city in Selangor would probably pay less than RM250 in annual taxes, while a similar two-bedroom terrace house in Nottingham, UK (current purchase price £75,000) would incur a property tax of £1675.

Such disparity will not only affect the quality of services between different cities, but will also affect the range of services that a city can provide to its residents. Is there a right answer on how much should a city tax or spend? I would say no. The very purpose of local government is to allow decisions to be made locally. Whichever model or method of fund raising a city may choose to adopt, there must be the clear understanding that for every expectation of service, there is a cost that has to be paid. 





Understanding Local Authority Financial Reports

By Yap Lay Sheng, Intern, REFSA

Malaysian politics is stratified into three levels: the Federal, State and local government. Local governments are on the lowest level of this hierarchy, and hence have the least power. However, in many ways, our urban experience is most connected with our local governments, seeing as they are providers and maintainers of crucial amenities for sports, leisure, cultural and religious activities, importantly, local governments are also in charge of drafting local plans for development. As such, their activities demand more scrutiny from the public.

This report is based on the budget of local authorities for the year 2014, as sourced from the various local councils' websites. Some local authorities such as Dewan Bandaraya Kuala Lumpur (DBKL) have been left out of the analysis. DBKL's bloated budget is extremely controversial and has drawn flak from the Opposition due to preferential treatment from the Federal authorities. Other specially modified local authorities such as Putrajaya and the Labuan Corporation have been omitted as well. Although required by Act 171 to provide an annual summary of the budget, some local authorities have failed to do so. Perhaps more attention and enforcement by State Governments is needed for the local authorities of Muar, Mersing, Simpang Renggam, Alor Gajah, Lenggong and local authorities of Perlis, as their 2014 budgets could not be found.

Table 1: Local authorities by size of 2014 budget

<i>Local Authority</i>	<i>Population</i>	<i>Budget '14 in millions (RM)</i>
Majlis Bandaraya Pulau Pinang	708,127	420
Majlis Bandaraya Shah Alam	541,306	351
Majlis Bandaraya Petaling Jaya	613,977	324
Majlis Perbandaran Subang Jaya	708,296	250
Majlis Perbandaran Seberang Perai	818,197	233
Majlis Perbandaran Klang	744,602	205
Majlis Bandaraya Melaka Bersejarah	484,885	199
Majlis Bandaraya Johor Bahru	497,607	198
Majlis Perbandaran Kajang	795,522	180
Majlis Bandaraya Ipoh	657,892	170
Majlis Perbandaran Johor Bahru Tengah	529,074	156
Majlis Perbandaran Selayang	542,209	146
Majlis Perbandaran Kuantan	427,515	127
Majlis Perbandaran Ampang Jaya	468,961	120
Majlis Bandaraya Kuala Terengganu	337,553	110
Majlis Perbandaran Pasir Gudang	46,571	101

With a budget of RM 419.8million, the Majlis Bandaraya Pulau Pinang or Penang City Council has the largest budgeted expenditure in the list of local authorities (which excludes DBKL).

Table 2: Local authorities by estimated size of deficit 2014

<i>Local Authority</i>	<i>Population</i>	<i>Deficit in millions (RM)</i>
Majlis Bandaraya Pulau Pinang	708,127	-74.8
Majlis Perbandaran Seberang Perai	818,197	-27.4
Majlis Perbandaran Sungai Petani	443,488	-25.6
Majlis Bandaraya Petaling Jaya	613,977	-19.3
Majlis Perbandaran Manjung	211,113	-15.1
Majlis Bandaraya Alor Setar	405,523	-12.7
Majlis Bandaraya Ipoh	657,892	-7.0
Majlis Daerah Besut	136,563	-6.0
Majlis Perbandaran Teluk Intan	128,143	-5.3
Majlis Perbandaran Taiping	245,182	-4.3

Local authorities that are expected to record the largest deficits are usually in urban areas with substantial populations. Deficits could point to imprudent management of public funds, or these could also be a way to stimulate the local economy, provide employment opportunities, etc.

According to the Ministry of Housing and Local Government, there are six sources of income for local authorities: assessment rates or tax; licenses; rentals; government grants; car park charges, planning fees, compounds, fines and interests; and loans. Increased economic

activity would naturally increase the proportion of tax revenue. States and the Federal Government could step in to support local authorities. However, Malaysia's annual budget tabled by the Cabinet has been known to be heavily skewed towards allocation for Federal purposes, often neglecting States in the process. For example, in 2010, the States received only a meagre 2.48% allocation in the budget, affecting State transference of such funds to local authorities in the form of grants. More needs to be done to assist local authorities to overcome deficits.

Table 3: Local authorities by estimated size of surplus 2014

<i>Local Authority</i>	<i>Population</i>	<i>Surplus in millions (RM)</i>
Majlis Perbandaran Kota Bharu	314,964	+13.1
Majlis Perbandaran Kulai	234,532	+4.5
Majlis Daerah Bachok	77,447	+2.8
Majlis Daerah Tangkak	131,890	+2.0
Majlis Daerah Kota Tinggi	84,971	+1.5
Majlis Perbandaran Kluang	167,833	+0.7
Majlis Daerah Tanah Merah	115,949	+0.6
Majlis Daerah Kampar	90,313	+0.5
Majlis Daerah Kuala Selangor	205,257	+0.5
Majlis Perbandaran Pasir Gudang	46,571	+0.4

Local Authorities in Malaysia sometimes register small surpluses although Majlis Perbandaran Kota Bharu (MPKB) is an exception with a larger than

usual expected surplus of RM13 million for the year 2014, which was 18% of the total budget for MPKB in 2014.

Table 4: Local authorities by percentage of budget for development purposes

<i>Local Authority</i>	<i>% of funds allocated for development*</i>
Majlis Perbandaran Johor Bahru Tengah	38.2
Majlis Daerah Pasir Puteh	30.2
Majlis Daerah Besut	29.0
Majlis Perbandaran Bentong	28.5
Majlis Daerah Yong Peng	27.7
Majlis Daerah Pontian	27.1
Majlis Bandaraya Melaka Bersejarah	26.8
Majlis Daerah Ketereh	26.2
Majlis Daerah Machang	25.5
Majlis Daerah Kota Tinggi	21.1

Under Act 171, local authorities spending for development purposes is discretionary, while maintenance services are mandatory. While there is no perfect formula for the allocation of funds between development purposes and operating

expenses, effective development should naturally lead to increased economic growth and increased tax revenues, helping local authorities to maintain a healthy balance sheet.

Table 5: 15 Highest expenditure per capita

<i>Local Authority</i>	<i>Population</i>	<i>Expenditure Per Capita (RM)</i>
Majlis Perbandaran Pasir Gudang	46,571	2,170.26
Majlis Bandaraya Shah Alam	541,306	647.77
Majlis Bandaraya Pulau Pinang	708,127	592.83
Majlis Bandaraya Petaling Jaya	613,977	528.23
Majlis Daerah Sabak Bernam	46,353	449.38
Majlis Perbandaran Sepang	207,354	445.82
Majlis Perbandaran Port Dickson	101,073	423.03
Majlis Bandaraya Melaka Bersejarah	484,885	409.83
Majlis Bandaraya Johor Bahru	497,607	397.36
Majlis Perbandaran Kemaman	166,750	391.02
Majlis Daerah Tanjong Malim	50,575	363.67
Majlis Perbandaran Subang Jaya	708,296	353.10
Majlis Bandaraya Kuala Terengganu	337,553	324.41
Majlis Perbandaran Kuantan	427,515	298.01
Majlis Daerah Hulu Selangor	194,387	296.51

The average expenditure per capita for all local authorities included in our analysis is RM284.45. As a general observation, local authorities with above average expenditure per capita are from urban areas with a large population. However, Majlis Perbandaran Pasir Gudang registered an astonishing RM2170.26 per capita expenditure, despite having less than 10% of the population of Majlis Perbandaran Shah Alam which has the next highest per capita expenditure as shown in Table 4. Other areas with smaller populations but significantly higher than average expenditure per

capita are Majlis Daerah Sabak Bernam and Malis Daerah Tanjong Malim.

The performance of local authorities varies across the board, with some registering huge deficits, while some manage to maintain a healthy budget. Others devote too little funds for development purposes. However, to ensure greater public feedback on the performance of local government, and to ensure that they are efficiently run, it is pertinent for democratisation to occur at the local government level.



Section 4:
Running Our
Cities & Towns



BRT: Rethinking expensive public transport projects in Malaysian cities		
By Wong Shu Qi	51	
An Aged-Friendly City For All - Rich or Poor		
By Pauline Wong	54	
The Truth behind Solid Waste Management & Incinerators		
By Wong Shu Qi	59	
A Lucrative Dirty Business		
By Lam Choong Wah		62
The Road Less Taken		
By Chen Fong Theng		68



BRT: Rethinking Expensive Public Transport Projects in Malaysian Cities

By Wong Shu Qi
Deputy Executive Director, REFSA
State Assemblyperson for Senai, Johor

Today in Malaysia, 78% of households own a car while 66% own a motorcycle. As such, it is no wonder that our roads are always congested, regardless of how many highways we build. Consequently, many people are pressing for an improvement of public transport, notably the Mass Rail Transit (MRT) system. As evidenced by the perpetual construction scenes dotting the capital city, the Government itself is emphasising the MRT as a solution to urban congestion.

Yet, is the costly MRT the way forward for our traffic problems?

We are used to associating public transport with MRT. Maybe it is because the MRT is a prominent feature in Hollywood films when movies are set in major cities, such as New York, London, Tokyo or Hong Kong. Perhaps due to this, most Malaysians have a good impression of the MRT as an efficient public transport system. The MRT operates on fixed rail, has a high carriage capacity, travels at high speed and is usually on time. Contrast this with being caught in a massive traffic jam; as such the MRT has become the world's quintessential public transport option.

In Malaysia, for better or worse, we have an alphabet soup of different varieties when it comes to the rail transport system. We were first introduced to KTM Kommuter in the mid-90s and the Light Rapid Transit (LRT) a few years after that, then came the KL Monorail, and of late, the MRT, and the Bus Rapid Transit (BRT). The transit map is as confusing to many people including Malaysians as the bevy of acronyms representing the type of "trains" snaking through, in and out of the capital city daily.

MRT, LRT, BRT

Without going into too much detail, the main difference between the MRT and the LRT is one of capacity.

The former transports between 25,000 to 80,000 passengers per hour, which makes it available and sustainable for cities with at least 1 million daily commuters. The latter carries between 3,000 to 30,000 passengers per hour. In an extreme case like Manila, a single light rail system can cater to up to half a million commuters every day.

On the other hand, the BRT is a bus system which utilises a dedicated lane. Our first BRT system will be launched in Subang in 2015.

The primary objective of a public transport system is to ensure mobility, allowing people to go to work, school, recreation, seek medical services, social activities and others. Thus, at the core, traffic flow must be optimised especially at peak hours to enable the volumes of commuting taking place. A city cannot function well if its inhabitants are always caught up in traffic jams. In such a city, the cost of logistics would be higher, air pollution worsened and the quality of life significantly diminished.

As such, city planners should design cities based on the Transit Oriented Development (TOD) model, where mobility is encouraged via transit and non-motorised transportation.

Nevertheless, planning must be matched to the local

context. No single solution suits every city. Dense and highly populated cities such as Hong Kong, Singapore and Taipei have successfully implemented the MRT system. Portland in the US and Melbourne in Australia have efficient LRT systems; while Bogotá in Columbia and Brisbane in Australia are good examples of BRT implementation.


The key to a successful public transport system is not the scale of the project but whether it suits local needs while encompassing the three elements of accessibility, punctuality, and safety.

Do Malaysian cities need the MRT?

The question before us is then, what sort of system do we need to maximise mobility in our cities and towns?

In comparison with other cities in the world where the MRT is successfully implemented, Malaysia has a sprawling population spread out across low-density residential areas. In cities with good MRT models, an MRT station may serve up to tens of thousands, while for Malaysian cities, an MRT station may only cater for fewer than 10,000 residents within a radius of 1km.

Do we really need a high-capacity transit system? The MRT transports at least 25,000 to 80,000 passengers one-way per hour. To ensure that the system functions optimally and does not end up as a white elephant, we need at least one million commuters to use it every day. This is definitely a challenge even for larger Malaysian cities such as the Klang Valley conurbation.



Moreover, the Hong Kong Mass Transit Railway is the only MRT system in the world that can breakeven with ticket sales. Even successful MRT systems in Singapore or Taipei maintain their profits through advertisement and other incomes.

The MRT costs exponentially more to build than the BRT. This inevitably has to be funded by taxpayers and in the Malaysian context, may end up severely under-utilised. Even if it is built, sustainability will remain a major challenge.

Finally, in our context where the population is largely sprawled across low-density residential areas, the MRT must be complemented by a good feeder bus system. This is the “last mile” challenge. If commuters have to walk more than a kilometre to and from MRT stations, they may opt for private vehicles instead.

BRT as a cheap and effective public transport option for Malaysian cities

For our cities, we need a public transport system which is able to extend deep into the sprawling suburbs, is economical to build and maintain, and is easily scalable or adaptable to the changing centres of our ever-evolving cities. All these factors considered, the expensive MRT may not be the best option for us.

In contrast to the MRT, the BRT is a cheaper alternative because it does not require fixed rail and special train coaches. The system is basically buses running on a special lane on existing roads. In this aspect,

the Subang BRT which runs on an elevated bus lane defeats the whole idea of a cost effective public transport system. In a normal situation, the cost of building a BRT is only one-tenth of the cost of a MRT system.

A bus carrying just 40 passengers removes at least 20 vehicles from clogging the roads. It certainly justifies the need for a special bus lane rather than to build elevated bus lanes. Unfortunately, there is a negative perception of buses, as these tend to be infamous for unpunctuality and long waiting times for passengers.

We should look to the pioneering BRT systems in Curitiba, Brazil or Bogotá, Columbia if we need a model for reference. Similar to these cities in the developing world, all our cities are changing rapidly. The crowded central business district today may not be the central business district in another 20 years’ time. Hence a flexible system like the BRT which can easily adapt to the changing nodes and routes of our cities should be the foremost option when we consider what type of public transport we want to have in our cities.

Buses are cheaper than train coaches, special bus lanes are not as costly as fixed rail, and routes can be changed to follow patterns of urban development. These are the reasons why we should go for the BRT.



An Aged-Friendly City For All - Rich or Poor



By Pauline Wong
Assistant Editor, The Rocket



Last month, my mother and I ventured into Pavillion KL, for what was our monthly tete-a-tete of looking at expensive bags that cost a month's salary or more, commenting on the state of affairs and how the country should be run.

My mother, who turns 57 this year, has a lot to say about that last point, as any senior citizen would, having lived through four Prime Ministers.

Talking animatedly, we decided to cross the busy Jalan Bukit Bintang to get to Lot 10.

It was then, amidst the backdrop of metropolitan Kuala Lumpur and a middle-class lifestyle, that I realised that my mother was falling behind me by quite a distance, trying to cross the busy road in the allotted 10 seconds for the pedestrian crossing.

It was quite crowded, being a Sunday, and the crowd milling from all directions made it difficult for her to navigate. She was bumping into many hurried young people, who didn't bother to make way to accommodate a silver-haired grandmother of one.

My mother, whose swift hands had brought me up, now needed my hands to steer her across the road.

I didn't realise how my mother had aged until I saw her getting tired so much more easily, and needing to rest for far longer. It never quite hit me until that day when we both crossed the road.

My mother is far from feeble, she is healthy and goes for brisk walks up a hill three times

a week. Having said that, a heart surgery operation about five years ago has set her back quite a bit.

So I started noticing other things...

Stairs are a little bit of a problem, though she would not admit it. She needs to sit down more. Her fingers ache in the mornings. She is less aware of her surroundings, and is sometimes confused about where to go. She forgets things easily, too. She rarely ventures out of the home on her own, and public transportation is not an ideal alternative - though we are lucky enough to stay just three minutes away from a bus station.

She speaks longingly of the time we visited England, where she saw people 20 years her senior independently travelling on special buses that lower to the pavement. She felt that the elderly there had such a lively community to belong to.

There is less of that here, she says.

Now, if a senior is middle or upper-class, it is not such a huge problem: some can afford to hire drivers, others have small, automatic cars which they can drive slowly over short distances. A gaggle of senior ladies with retirement funds to spare can go out, have tea, and talk about their children. They can afford healthcare, and they can afford various aids to help them live out their senior years comfortably.

In so many ways, my mother is blessed to have all her three children living close by, and she can still do many things fairly easily, even going shopping with me and judging my clothing choices.

Far too many cannot, or will not be able to.

The statistics tell the story - by 2030, Malaysia would be an ageing population as 15% of our citizens hit the 65 and above age bracket. Many do not have sufficient retirement funds, as is evident from reports by the Employees Provident Fund that nearly 70% will have less than RM50,000 in their savings when they retire. More will fall below the poverty line upon

losing their income.

Currently, ageing comfortably is a luxury only afforded to a certain segment of society. Those who cannot afford it, get left behind.

The infrastructure in our cities is also not especially aged-friendly, for instance, some RapidKL buses do lower to the pavements, but more often than not, the steps are a struggle for the elderly. Pedestrian walkways are not safe, as these are usually badly or unevenly tiled, creating greater risks for falls. Many areas of the city are not pedestrian-friendly, even, much less aged pedestrian-friendly.

Inside shopping malls, washrooms are a struggle. There are no handrails to hold on to except in the disabled-friendly cubicles. Some are so narrow a fully-abled adult would have difficulties using them, much less the elderly.

Everywhere one looks, there is little reason for an aged person to want to step out and continue to be a productive part of society.

In many ways, the elderly here are a hidden generation, locked away in their homes and rarely made a part of the community. There are no special 'senior-friendly' holidays across the country where scores of the elderly can communicate and engage with each other and society at large.

They appear forgotten, despite their contributions, excluded by the physical and psychological barriers that come with age.

At the street corner near my office, are old people who live underneath a flyover, whose shelter is literally, a slab of concrete above their heads.

Who knows what their stories were? Perhaps they were temporary workers, perhaps they were labourers, factory workers — but upon retirement, their tiny savings quickly ran out. Perhaps some of them have children who live abroad, but these children have forgotten about them too.

What's sad is, who's bothering to find out? Who's going to ask them what their stories are? The Government in its rush to modernise and accelerate growth, and focus on the youth as the 'future leaders' have all but forgotten the baby boomer generation on whose backs this nation was built.

So many programmes are aimed at the youth, to build their potential or to groom them as influencers. In contrast, aside from cash handouts from both State and Federal Governments, the aged need more inclusive programmes that allow them to continue to contribute to society as a whole.

It is one thing to give them money to keep them alive, but what about helping them to live a life where they can still be part of society and have their opinions and experiences valued?


The Government needs to be proactive, and it is far simpler than one would expect. All that is required are the right policies, and the shifting of a 'handout' mindset to a 'participation' mindset. There is a checklist of an aged-friendly city which the World Health Organisation has provided, of which Malaysia has ticked too few of its boxes.

More pervasive still is a 'retirement home' mindset, as if when aged, all one can do is be placed in a special home. There needs to be far more focus on an independent senior lifestyle, where still-able and healthy seniors should be able to continue being a valuable part of society and

go easily where they please.

One would think that a Cabinet entirely populated with men over 55 years of age would care about growing old - but then again, they are moneyed, influential and have drivers to take them everywhere.

When it comes to the elderly lady trying to cross the street with her daughter; the grey-haired man who sings the same song everyday because he has nothing better to do; the nameless, wizened faces peering beneath dirty hair and cardboard boxes - who thinks for them?

It is time that more thought is given to this issue, 'unsexy' and uncomfortable as it is. It may not be the stuff of newspaper headlines, nor will it be as exciting and as sensational as the 1Malaysia Development Berhad (1MDB) scandal, but in time we will all grow old, and who will speak for us then? 



In Malaysia, those above 65 years account for just over 5% of our population, a figure which the National Statistics Department predicts will double to over 11% by 2040. In fact, by 2021, Malaysia will be considered an ageing population with more than 7% of the total population aged 65 and above. With all these figures in mind, it is crucial that we begin to make our cities aged-friendly.

In order to drive a discussion on aged friendly issue, REFSA organised a roundtable talk on 20 January 2015 which joined by several NGOs, scholars and lawmakers, and was led by the Malaysian Healthy Ageing Society.

Key statistics from the World Health Organisation in its guide to Global Aged-friendly Cities:

- *The world is ageing rapidly, and the number of people aged 60 and over will double to 22% by 2050. By then, there will be more older people than there will be children (aged 14 and below), for the first time in human history.*
- *Over half of the global population live in cities. Mega-*

cities of 10 million inhabitants or more have increased from just two of such cities, to 20 mega-cities at the turn of the 20th century.

- In developing countries (like Malaysia), the share of older people in urban communities will multiply 16 times from about 56 million in 1998 to over 908 million in 2050. By then, older people will comprise one fourth of the total urban population in less developed countries.

World Health Organization (WHO) Checklist for Aged Friendly Cities and how many we haven't achieved

Environment and public spaces

- The city is clean, with enforced regulations limiting noise levels and unpleasant or harmful odours in public places.
- There are well-maintained and safe green spaces, with adequate shelter, toilet facilities and seating that can be easily accessed.
- Pedestrian-friendly walkways are free from obstructions, have a smooth surface, have public toilets and can be easily accessed.
- Outdoor seating is available, particularly in parks,



transport stops and public spaces, and spaced at regular intervals; the seating is well-maintained and patrolled to ensure safe access by all.

- Pavements are well-maintained, smooth, level, non-slip and wide enough to accommodate wheelchairs with low curbs that taper off to the road.
- Pavements are clear of any obstructions and pedestrians have priority of use.
- Roads have adequate non-slip, regularly spaced pedestrian crossings ensuring that it is safe for pedestrians to cross the road; with appropriately placed physical structures, such as traffic islands, overpasses or underpasses, to assist pedestrians

to cross busy roads.

- Pedestrian crossing lights allow sufficient time for older people to cross the road and have visual and audio signals.

Public transport

- Public transportation is affordable to all older people.
- Public transport is reliable and frequent (including services at night and at weekends).
- Public transport is available for older people to reach key destinations such as hospitals, health centres, public parks, shopping centres, banks and seniors' centres.
- All areas are well-served with adequate, well-

connected transport routes within the city (including the outer areas) and between neighbouring cities.

- Public vehicles are accessible, with floors that lower, low steps, and wide and high seats, and sufficient specialised transport services are available for people with disabilities. Should also have priority seating.
- Drivers are courteous, obey traffic rules, stop at designated transport stops, wait for passengers to be seated before driving off, and park alongside the curb so that it is easier for older people to step off the vehicle.
- Public transport is safe from crime and is not overcrowded.
- Stations are accessible, with ramps, escalators, elevators, appropriate platforms, public toilets, and legible and well-placed signage.
- Transport stops and stations are easy to access and are located conveniently.
- Station staff are courteous and helpful
- Taxis are affordable, with discounts or subsidised taxi fares provided for older people with low incomes.
- Taxis are comfortable and accessible, with room for

wheelchairs and/or walking frames.

- Taxi drivers are courteous and helpful.

Mobility and roads

- Roads are well-maintained, wide and well-lit, free of obstructions that might block a driver's vision, and rules strictly enforced
- Refresher driving courses for seniors are provided and promoted on a yearly basis.
- Affordable parking is available, with priority parking bays close to the building
- Housing and community participation
- Affordable housing is located close to services and facilities, with affordable services that will enable older people to remain at home
- Housing design facilitates continued integration of older people into the community.
- There is a range of appropriate services and appropriate amenities and activities in older people's housing facilities.
- Older people's housing is integrated in the surrounding community.
- Personal invitations are sent to promote activities and

encourage participation in community events

- Events are easy to attend, and no special skills (including literacy) are required.
- Organisations make efforts to engage isolated seniors through, for example, personal visits or telephone calls.
- Local gathering places and activities promote familiarity and exchange among neighbourhood residents.
- Older people are included as full partners in community decision-making affecting them, recognised for their contributions past and present



The Truth behind Solid Waste Management & Incinerators

By Wong Shu Qi,
Deputy Executive Director, REFSA
State Assemblyperson for Senai, Johor

Another incinerator project was announced in the first week of June 2014, while the dust of the Kepong incinerator had yet to settle down. The Director of Johor PPSPPA made an announcement that the first incinerator in Johor, which will be located at Bukit Payong, is now open for tender. A question must be asked; do Johoreans need the Bukit Payung incinerator?

The announcement was made whilst the Johor Assembly was in sitting. Unfortunately, waste management wasn't an issue that attracted much attention or exciting debate in the house.

After the "Solid Waste Management and Public Cleansing Act 2007" (Act 672) was gazetted and endorsed by certain states, the Federal Government and agencies located in Putrajaya have taken charge of solid waste management (SWM) in several peninsular states and federal territories, including, Johor, Melaka, Negeri Sembilan, Pahang, Kuala Lumpur, Putrajaya, Kedah and Perlis.

Both Selangor and Penang State Governments decided in 2011 that they wouldn't hand SWM over to the Federal Government, while the Perak Government which is under Barisan Nasional rule has also decided not to hand over power for SWM to the Federal Government for the time being.

How much do we waste?

The tonnage of waste that Malaysians produce every day as well as where the waste ends up, are the issues that all policymakers should concern themselves with, especially as we have seen the worst outcomes with



the shutdown of the Taman Beringin Solid Waste Transfer Station, Kepong.

On average, each Malaysian produces 800g of waste every day; those who live in urban areas produce about 1.25kg of waste per day. Malaysians produce 33,000 tonnes of waste every day, while Johoreans contribute 3,600 tonnes, more than one-tenth of the national average.

It's not surprising that nearly half of the waste is actually food waste. According to the National Solid Waste Management Department (JPSPN), our daily domestic waste consists of 45% food waste, 24% plastic, 7% of paper, 6% of metal, 3% of glass and 15% of other waste.

In Johor, there are 14 landfills currently operating to dispose 3,600 tonnes of waste produced by Johoreans every day, including the Seelong Sanitary landfill, the only sanitary landfill in Johor.

1,300 tons of waste from five local municipals is dumped at the 111-hectare Seelong Sanitary Landfill directly, after being collected from house to house.

Hence, it's not difficult to understand why the estimated life span of the sanitary landfill has been shortened to 15 years from the original 20 years since it started operating in 2003. Municipal waste is increasing day by day due to the rapid development of southern Johor, coupled with the fact that there is no recycling at all before the waste end up at the landfill.

Privatisation vs localised waste management

Johor is among the states that immediately handed over SWM to the Federal Government upon the gazetting of "Solid Waste and Public Cleansing Act 2007". The Act came into force in 2011 and Southern Waste Management Sdn. Bhd. (SWM Sdn. Bhd.) has since been fully in charge of SWM for Johor, Melaka and Negeri Sembilan.

Financial constraint was the only reason given by both Federal and State officers for the centralisation and/or privatisation of waste management. The Johor EXCO for local government, Abd. Latiff Bandi explained that the State had no choice but to endorse the Act to receive a subsidy from the Federal Government; neither the local councils or the State had the capacity to fully manage the issue.

It is worth noting that the private concessionaire charges the Gov-



ernment according to the weight of solid waste processed. It is therefore highly unlikely that the concessionaire would endorse a "zero-waste" policy where possible, as this would affect its profitability, despite it would better serve the community and the environment.

An UMNO state assemblyperson said during the Johor State Assembly sitting that centralised SWM actually helps people as they wouldn't need to pay higher assessment fees for increases in waste disposal. It is clear that he does not know that the Federal Government is planning to have separate charges directly payable to the private company. The Act actually provides for concessionaires to charge the end consumer as well as the Federal Government (similar to Indah Water Consortium).

Currently, Johoreans pay about RM140 million annually to SWM Sdn. Bhd. and the amount is on the rise.

Undeniably, SWM Sdn. Bhd. has improved their services through the purchase of new imported garbage compactors that have solved the leachate problems.

Yet, the latest technology doesn't resolve the core issue of SWM. Municipal waste produced at Batu Pahat is definitely different from the waste produced by Muar households. Localised waste collection and separation are needed to address the problem of increasing waste.

Can SWM Sdn. Bhd. or the Federal Government provide a set of localised policies that suits the character of waste produced from different zones? I believe the policy can be crafted perfectly, but the issue is whether or not the plan can be implemented without political will and the necessary empowerment of local municipal councils.



Reducing waste before building mega incinerators

Malaysia has adopted the 3R (Reduce, Recycle, Reuse) policy for more than 20 years, and we are supposed to implement waste separation at the source nationally this year.

Without separation of waste at the source, plenty of materials that should and could be reused or recycled, end up at landfills. The third R – Reuse is nothing more than complete failure.

Separation at source and localised management are highly co-related, as the waste character of different places affects the methods which ought to be taken to recycle or reuse waste. For instance, there is a private food waste collector in some areas of Batu Pahat to collect food waste that is turned into organic fertiliser in Selangor.

The ultimate objective of formulating localised policies is to be "environmental friendly". Food waste could be turned into animal food if there are many livestock farms in the area. This would also help to reduce the CO2 footprint related to bringing in animal food from other areas.

Likewise, the decision between incinerator, landfill and other methods is also all about being environmentally friendly. If building a mini incinerator in a remote area like Cameron Highlands is better than sending all waste from the Cameron Highlands to landfills further away, then why not the former?

Yet, we must remember that regardless of the final decision made to treat and resolve waste, "reduce" should be done in advance so that both incinerators and landfills aren't burning and composting what could be treated or reused.

With separation at the source to facilitate the recycling and reusing of certain materials, it generates a two fold positive impact on the 'business' of waste management. With the 'charge-by-tonnage' principle, the Government will pay much less for incinerator and landfill management if less waste needs to be processed. This also comes with added benefits to the public who could turn what they've recycled into profits, and reuse where necessary and available.

With the above, will waste management system still be an un-profitable business for the Government? I highly doubt it.





A Lucrative Dirty Business

By Lam Choong Wah, Senior Fellow, REFSA



Waste management is a forgotten topic in Malaysia. In most people's eyes – out of sight is out of mind. Yet, whether we like it or not, from the day we are born we are producing rubbish and waste; which means waste management is a major issue to be tackled.

While many assume that waste management is a dirty and unwanted business, the Federal Government has taken a drastic move to restructure the country's waste management framework and has introduced privatisation to the sector.

The Federal Government realised that waste management is a profitable business worth billions of Ringgit annually. To understand about how the implementation of waste management policy can be translated into lucrative businesses, we need to take an in-depth look into the relationship between the centralisation of power, political business and the 'UMNO-isation' phenomenon.

The roots of federalisation

In Malaysia, the entire political, socio-economic, States' relations, public services and others are built on the bedrock of federalism. But, what is federalism?

Federated states have at least two levels of government. The first level is the federal government that has jurisdiction over the entire country, while the second level is the local government that has independent jurisdiction over local matters. Both the federal and local governments' limits of power are defined and constrained by legal statutes and conventions.

The issue of waste management falls under Article 7 of the concurrent list in the Ninth Schedule of the Federal Constitution, where, waste management is defined as a 'sanitation' matter that is to be the joint responsibility of the

Federal and State Governments. In the past, the Federal Government usually provided funds and financial assistance to the various State Governments for their waste management and did not become directly involved in the States' waste management (with the exception of the Federal Territories of Kuala Lumpur, Labuan and Putrajaya).

In turn the State Governments would delegate the task of running waste management to the local authorities, such as the City Hall, City Council, Municipal Council, District Council etc.

According to the Department of National Solid Waste Management, in the past the local governments had poorly administered cities' wastes, resulting in the deterioration of the environment and pollution of areas surrounding the landfills. This situation was largely brought about by a lack of funds, advanced technological expertise, manpower and other resources.

In the 1990s, the Federal Government decided to federalise waste management to resolve this troublesome issue, by taking

over waste collection, sorting and management functions of the State and local governments. Beginning 1 January 1997, the Federal Government took over the solid waste collection from 44 local councils. Waste management in the northern, central and southern regions were assumed by three private companies - Environment Idaman Sdn Bhd, Alam Flora Sdn Bhd and Southern Waste Sdn Bhd, respectively.

Later, in June 2007, the Federal Government passed five bills in its attempt to consolidate federalisation. The five statutes passed were:

- 2007 Solid Waste and Public Cleansing Management Act,
- 2007 Solid Waste and Public Cleansing Management Corporation Act,
- 1976 Local Government Act (amended),
- 1974 Street, Drainage and Building Act (Amended)
- and 1976 Town and Country Planning Act (amended).

As of December 2014, seven out of thirteen states have surrendered their waste management powers

to the Federal Government, with the exceptions of, Penang, Perak, Selangor, Kelantan, Sabah and Sarawak.

Taking over more responsibilities from State Governments doesn't consolidate federalism, but erodes it instead. The idea of federalism is a division of powers between national and local governments - the former takes care of overarching and interstate issues, while the latter takes care of local issues such as waste management. Absorbing waste management into the orbit of the Federal Government appears to go against the idea of federalism and is more of a central approach to government.

Privatisation – a panacea?

When a State Government surrenders its waste management powers, the Federal Government then delegates the state's waste processing to an appointed private company, in a classical neo-liberalist approach. This begs the question, is privatisation a panacea?



It cannot be denied that the Federal Government under BN has many neo-liberalist traits - favouring market economics and believing that privatisation is the panacea to many problems. However, compared with the privatisation policies practised in European and North American countries which are designed to advance the concept of small government and big market, in Malaysia, privatisation policies have taken a different train of thought.

On 25 February 1983, former prime minister, Dr Mahathir Mohammed announced the policy of Malaysia Incorporated, in a sense a declaration that Malaysia was no longer a country but a profit-seeking enterprise run by the Federal Government. Since then Malaysia has embarked on a vigorous path of privatisation. In the Malay language, the US is known as Amerika Syarikat (Corporate America), which bears a striking similarity to Malaysia Incorporated or Persyarikatan Malaysia.

Landfills and incinerators

After the privatisation of solid waste management in Peninsular

Malaysia, the Federal Government turned its attention to the final waste disposal sector.

Thermal treatment or incinerators were selected as one of two methods, the other was sanitary landfill.

As of December 2014, the Federal Government has built eight sanitary landfills throughout the peninsula and plans to upgrade more non-sanitary landfills to sanitary landfills in the next few years.

The Federal Government had also attempted to build 1000-ton incinerators in Selangor (in Puchong and Broga) but met stiff opposition from the residents. This resulted in the termination of the proposed Puchong incinerator in 2002 and the proposed Broga incinerator in 2006. Despite encountering set backs in promoting these mega-incinerators, the Federal Government managed to build four small scale incinerators in Pangkor, Langkawi, Cameron Highlands and Tioman in 2008.

The four incinerators operated by XCNT Sdn Bhd, encountered various mismanagement and safety problems during the construc-

tion and operational periods. The Ministry of Wellbeing, Housing and Local Government should shoulder much of the blame for selecting the unproven technology provided by XCNT which contributed to many of the problems. Eventually the Ministry was ticked off by the Public Accounts Committee of the House of Representatives and National Anti Incinerator Coalition (GAIK).

Despite these failures, the Federal Government has decided to build even more incinerators. In 2013, it announced plans for three mega incinerators to be located in Kuala Lumpur (1000-tonne daily capacity), Melaka (1200 tonne) and Johor (800 tonne). Four joint-venture firms have been shortlisted to construct the Kuala Lumpur incinerator, including, UEM Environment Sdn Bhd with Japan's Mitsubishi Heavy Industries Ltd, Puncak Niaga with Japan's Hitachi Zosen Corp, MRCB with South Korea's Hyundai Rotem Co, and DRB-Hicom with Japan's Simitomo Corp in September 2014.

In June 2014, KUB Sdn Bhd signed a Memorandum of Understanding with Japanese IHI Enviro Corporation - which was witnessed by Minister of Wellbeing, Housing and



Local Government Abdul Rahman Dahlan – to provide a thermal treatment solution for Johor’s incinerator project.

The similarity between the Kuala Lumpur and Johor incinerator projects is UMNO-linked companies such as DRB-Hicom, KUB and UEM which have actively bid for projects.

UMNO-isation

The British and Americans view privatisation as a tool to further boost productivity and efficiency; however in Malaysia there are other political reasons for privatisation. In his attempt to rationalise privatisation policies, Mahathir explained that the Government Linked Corporations (GLCs) had low efficiency and needed to enhance the level of Malay entrepreneurship.

To resolve these two issues, Mahathir embarked on a selective patronage system by awarding government projects to a few Malay entrepreneurs considered capable enough to run the projects.

This marked the prelude of UMNO’s big scale involvement in businesses. Whereas in the US the

military-industrial complex decides presidential outcomes, in Malaysia, the Umnoputeras (UMNO princelings) hold a big sway over the country’s politics and economic lifeline.

To delve further back into history, the first major business acquired by UMNO was not a construction or financial company but a newspaper company – Utusan Malaysia – in 1961. Subsequently in the 1970s, UMNO through its investment arm Fleet Holdings, acquired the New Straits Times and Berita Harian. This enabled UMNO to ‘whitewash’ its political message and business collusion activities, while countering any possible attacks. In short, this allowed UMNO to control the media and its public image.

In April 1985, UMNO through Hati Budi Sdn Bhd, acquired United Engineering Malaysia (UEM) from the Singapore-based United Overseas Bank Ltd (UOB). UEM was to become UMNO’s biggest investment arm. It benefitted commercially from various government projects, including the construction and operation of the North South Highway project (this continues to be its largest cash generating venture till today).

The practice of taxpayers’ money being channelled from the Government to UMNO-linked companies was so rampant that Mahathir once said openly that the reason for giving the contracts to UEM was because UMNO needed the funds to repay the RM360 million cost of constructing its headquarters – the Putra World Trade Centre (The Star, 29 August 1987).

The businessmen selected by Mahathir – who could more accurately be described as cronies – included some non-Bumiputera beneficiaries. In the 1980s, the Berjaya group founder, Vincent Tan obtained the Sports Toto gaming license; Ananda Krishnan, the tycoon who controlled Maxis and Astro, obtained the Big Sweep Lottery gaming license; while Francis Yeoh’s YTL received a large share in the Independent Power Producer (IPP) project. In a sense this seemed to run contrary to the objectives of Tun Abdul Razak’s New Economic Policy (NEP).

These UMNO-linked businesses share one or more common features – all the contracts were obtained with government interference, political patronage, without open tender bidding and aided by interest-free government



funding. Public information shows that in 1995, as many as 20% of UMNO's divisional leaders were millionaires!

The dirty world of waste

What is undeniable is that even in the waste management sector, Umno-isation has taken hold. The company in charge of the northern region's waste collection - Environment Idaman Sdn Bhd, is a subsidiary of UEM. The company in charge of the central region's waste collection is Alam Flora Sdn Bhd, a subsidiary of DRB Hicom Bhd owned by UMNO-linked Syed Mokhtar. While for the southern region, the company responsible for waste collection, Southern Waste Management Sdn Bhd, is a subsidiary of LGB group.

One of LGB's subsidiaries, Grand Saga Sdn Bhd, was involved in the controversial standoff in Bandar Mahkota, Cheras in the state of Selangor in 2008, and the former Minister of Housing and Local Government, Ong Ka Ting was appointed as an independent non-executive chairman of Taliworks Corporation, another subsidiary of LGB group in April 2014.

In the sector of waste management, the company in charge of the Bukit Tagar sanitary landfill, Selangor, is KUB-Berjaya Enviro

Sdn Bhd, a joint venture between UMNO-linked KUB Malaysia Berhad and Berjaya Group. While the project to build the incinerators in Pangkor, Langkawi and Cameron Highlands were awarded to a company - XCNT Sdn Bhd - founded by former navy chief, Abdul Wahab bin Haji Nawati.

Although privatisation may be good for business, it is not necessarily so for taxpayers as illustrated by a recent incident. In December 2014, Umpan Jaya Sdn Bhd the operator of a waste transfer station at Taman Beringin, Kepong stopped operations with no warning. As a result, waste compactors had to dump their rubbish on the Middle Ring Road 2 (MRR2). Despite this situation, The KL City Hall did not take legal action against Umpan Jaya Sdn Bhd or its founder, Mohd Noordin Mohd Kassim, a former divisional leader of Batu Kawan UMNO division, Penang.

Conclusion

Today, State Governments are only responsible for religious, land management, land tax, and urban planning matters. Only Penang, Perak and Selangor states still manage their waste management

matters, therefore any further federalisation will only weaken the State and local governments' remaining powers.



The reasons why local governments are not efficient in their waste management are not due to the lack of intervention and support of the Federal Government but due to the lack of checks and balances, the limited means to raise funds and limited jurisdiction.

The problem is not because the federal government is more efficient compared with the local governments but it is because there is no decentralisation and

problem once and for all. To create a quality and efficient civil service is another challenge.

Looking at the Malaysian situation, the federal government's push for federalisation is moving towards centralisation of powers rather than solving the actual problems. With centralisation of powers, it will be more conducive in pushing for privatisation and Umno-isation measures.

Secondly, will privatisation necessarily bring benefits? Many cases of privatisation in Malaysia has shown two results, namely certain companies getting legal monopolies and resulting in price increase which further aggravates the gap between the rich and poor. Obviously, privatisation is not a good choice for Malaysia.

Thirdly, Umno-isation will only benefit those who are well connected with political decision makers, especially those connected to UMNO mainly, such as the Umnoputras. Corruption, money politics, cronyism and abuse of power will flourish as result. What is even more important, exclusivity of Umno-isation will sideline those companies that are competitive. Not only will admin-

istrative efficiency not improve, but will actually slide down. The case of Umpan Jaya Sdn Bhd management not performing their duties mentioned earlier is a good lesson.

As what have been discussed in this article, a paradigm shift of waste management models is recommended, with the previous focus on federalizing, privatizing, injecting political business into the equation and treating waste as energy sources to focus on that of decentralizing, deprivatising, delinking political-linked business and treating waste as source of wealth. Q

*** This article is part of the full paper which will be released by REFSA in end 2015.

accountability on the part of the local governments. Here, the lack of local government elections is a key factor.

Furthermore, even if there are local government elections, it is no guarantee that it will solve the




The Road Less Taken

By Chen Fong Theng, REFSA Research Assistant



When will Malaysian public transport receive the boost it desperately needs?



Eight years ago the National Public Transportation Trust Fund was established. Billions of Ringgit later, has the situation improved for Malaysia's patient commuters?

The National Public Transportation Trust Fund better known as Kumpulan Wang Amanah Pengangkutan Awam (KWAPA) is a pool of public funds collected from petrol subsidies. It was established in 2006 by Abdullah Ahmad Badawi who was then Prime Minister and Finance Minister. He increased the fuel price from RM1.62/litre to RM1.92/litre, with the extra RM0.30/litre going to KWAPA's coffers.

From this increment, the Government was expected to accumulate RM4.4 billion, however, when KWAPA's accounts were finalised in 2008, it was reported that the total amount generated from the increase in fuel prices was only RM1.4 billion. The RM3 billion miscalculation is a huge variation of 68%! How did this happen? Especially at a time when world crude oil prices rose from USD61/barrel to USD74/barrel? Did the Government even take into account the possibility of world crude oil price hikes after the decrease of the fuel subsidy?

What does KWAPA do?

KWAPA was set up to further develop and enhance our current public transport system in major cities to encourage people to leave their cars at home. In order to achieve this target, KWAPA funds were to be used to improve our current public transport system to:

- Enhance the coverage and frequency of buses,
- Expanding the coverage of the current LRT and monorail system,
- Improve the integration system that connects LRT, monorail and bus systems.

Based on the reply from Minister of Transport in Parliament, as of 31 March 2014, a total of RM218.5 million has been spent on enhancing 682 buses route throughout Malaysia. An allocation of RM70 million has also been given to the Malaysian Green Technology Corporation (MGTC) for the development of more green public transport such as electric buses. A total of RM498.77 million was also spent in 2008 in areas related to improving the public transport system.

In another parliamentary reply, as of February 2015, a total of RM958.24 million has been spent from KWAPA, and it had RM152.82 million left in the account.

After eight years, have KWAPA's funds delivered better public transport for the people?

Over the years Malaysians have experienced increments to the fuel price with the highest at about 41% - this took place in June 2008, when petrol increased from RM1.92/litre to RM2.70/litre. With this increment, the Government saved a total of RM13.7 billion. However it has not been reported whether a single sen was channeled into KWAPA. It would appear that trimming down or removing fuel subsidies doesn't guarantee that saved money would be channelled into improving the public transport system.

Let's look at this scenario from another perspective. As we know, an effective public transport system usually has an inverse relationship with private vehicle ownership. This is because less people will opt to buy cars if they can rely on an efficient public transport system that fulfills all their mobility needs.

Based on the statistics provided by Ministry of Transport, private cars significantly increased 120,000, while public vehicles only slightly increased 500 respectively between 2006 and 2013. These numbers show that eight years after KWAPA's existence there are no significant results as more and more Malaysians have opted for private vehicle use.

Total Private vs Public Transport from 2006 to 2013

Year	Total Cars Registered	Total Motorcycles Registered	Total Public Transport Registered
2006	458294	448751	9090
2007	468512	484598	7692
2008	537092	543122	9713
2009	513954	441545	8209
2010	585304	498041	10370
2011	594610	542308	10920
2012	628239	609596	7754
2013	583060	528508	9603

Source: Road Transport Department Malaysia (JPJ), <http://portal.jpj.gov.my/web/guest/statistics>

Why don't more people opt for public transport? Why are more of them opting to have their own means of transport?

Those who take public transport will definitely know the answers.



Tax revenue from vehicles is greater than expenditure spent on transportation

The cost of owning a private vehicle is high as there are various Government taxes to be paid; taxes are even higher for imported vehicles compared to locally-made vehicles. For example, custom duties, import, excise duties, sales tax, service fees, vehicles rental, fees for vehicles collected from selling imported or locally made cars, tyres, etc. Supposedly, these taxes should be used to further develop our public transport system.

Over the years, the expenditure spent on transportation is far less than the tax revenue collected from car owners, the gap was RM4.92 billion. In order to improve our public transportation and encourage more people to switch their means of mobility, more tax revenue monies should be allocated to public transport. In the long run, this will lead to fewer traffic jams in cities especially during peak hours,


The amount that should be spent enhancing our public transportation should be a much larger percentage of the revenue earned from taxing private transportation.

Expenditures on public transport is lesser than tax revenues collected from cars

Year	Revenue (RM/Million)	Expenditure (RM/Million)	Difference (RM/Million)
2015	14,838	14,626	212
2014	17,532	13,617	3,915
2013	16,406	13,172	3,234
2012	15,989	14,368	1,621
2011	14,600	16,722	-2,122
2010	14,766	12,961	1,805
2009	12,034	13,985	-1,951
2008	12,534	14,188	-1,654
2007	9,736	13,425	-3,689
2006	7,858	12,874	-5,016
2005	10,447	10,758	-311
2004	9,283	9,255	28
2002	7,896	7,470	426
2001	7,022	6,713	309
2000	6,491	6,149	342
1999	5,319	4,048	1,271
1998	3,569	4,102	-533
1997	7,577	4,956	2,621
1996	6,874	5,617	1,257
1995	5,643	4,147	1,496
1994	4,499	3,678	821
1993	3,645	3,437	208
1992	3,281	3,491	-210
1991	3,441	2,605	836
Total	221,280	216,364	4,916

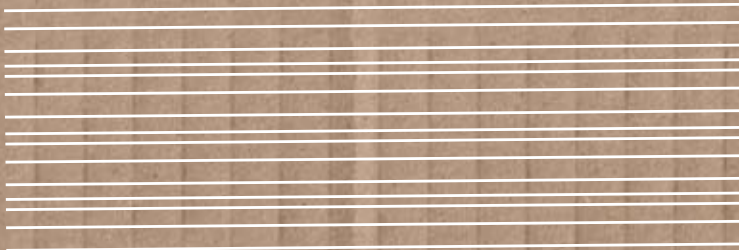
Notes: 1. Year 2003 Missing 2. 2015 is Budget Estimate 3. 2014 is Revised Estimate

Reference: Revenue Data are taken from Estimates of Federal Government's Revenue; Expenditure Data are taken from Economic Reports

Undeniably, setting up the KWAPA was a good move. But the problem was that it did not deliver what it promised as people still prefer private cars over public transportation. A study should be carried out to look into the effectiveness of the KWAPA and what kind of proper consolidated steps are needed to improve it. In addition, we should think about increasing expenditure on public transport. After all, the RM4.92 billion could be used to build a decent nationwide bus system. 



Section 6: Revisiting the Local Government Election



Revisiting the Athi Nahappan Report Part 2 : Recommendations

By Steven Sim and Koay Su-Lyn 73

Will Local Government Elections Erode Malay Rights?

By Saifuddin Abdullah 79

Local Democracy: More Politics or Less?

By Liew Chin Tong 82

Beyond Local Government: Making Kuala Lumpur a State

Compiled By REFSA 85

Kuala Lumpur – City-State of the Future?

By Lam Choong Wah 88



Revisiting the Athi Nahappan Report Part 2 : Recommendations

By Steven Sim, Executive Director, REFSA / MP for Bkt Mertajam
and Koay Su-Lyn, Analyst, Penang Institute

The most-cited recommendation of the Athi Nahappan Royal Commission of Enquiry must be the restoration of local government elections. Today, half a century later, with mounting demand for such a restoration, the Royal Commission's Report has become an important document of reference. The intellectual weight of it is undisputable, and has over the years been winning commendation from all sides. Rare is a Malaysian government report that cites Plato, Aristotle, Leonardo Da Vinci, Hegel, Edmund Burke and John Stuart Mills. It explored key historical situations like the French Revolution alongside the Soviet Constitution.

It must be noted, however, that the strength of the report consists not only in the technical enactment of a voting process to select local decision-makers; it also called for a thorough reform of local authorities in our country. Nonetheless, it was a context-specific recommendation, as the Commission's Report itself clearly noted. Hence, in formulating its proposal for reform, the Commission noted the order of priority as:

- i) National Unity
- ii) Social and Economic Development
- iii) Efficiency of the Administration
- v) Democracy
- vi) Autonomy

It maintained that "the above order of priorities are not intended to be static...[and] may change from

time to time and in accordance with the changed circumstances." The historical context of a nascent nation at that time called for a weighted emphasis on national unity.

The restoration of local elections

Yet, those who claim that holding local elections today will jeopardise racial and national unity will be thoroughly deprived of their arguments by the analysis of this half a century-old report. Even though it came at a precarious time in our nation's history, the Athi Nahappan Royal Commission defended the need for local elections after considering all factors affecting a newborn country.

One key obstacle to national unity was the fact that in the sixties, local authorities were polarised into clearly urban-based and rural-based ones, with most constituencies having a large presence of a single race. This was clearly the result of the colonial divide-and-rule policy still felt in young Malaysia at that time. As such, a key theme for reform evidenced throughout the report was for local authorities to be sufficiently "large", encompassing both urban and rural areas so that there would be a multi-racial representation.

Such a condition has largely been achieved today with the amalgamation of 373 local authorities into 149 relatively large local authorities (including district councils). The territories they cover are therefore much more heterogeneous than before.



Picking from the research of Dr. Ong Kian Ming, the Member of Parliament for Serdang, almost 70% of our local authorities (excluding district councils) today cover areas where no one single race composed of more than two thirds of the population. As such, if half a century ago, when this situation of diversity and plurality barely existed in our local authorities and the Athi Nahappan Royal Commission found it expedient to recommend local elections, how much more would the need be today?

In the highly assertive words of the Royal Commission, "weighing both the processes in a dispassionate manner we cannot but take cognizance of the fact that the merits of the elective process with all its inherent and attendant weaknesses outweigh those of the nominative process. In the long run, a healthy, vibrant participation of the citizens at all levels of public administration is more desirable, both as an objective and as a process, than the immediate short-range objective of efficiency." (para 542, pg. 102)

The spirit of the report

The Athi Nahappan Report did not recommend the restoration of local elections in isolation from legal and structural reforms of local authorities. Early into its Report, the Royal Commission has decided to set the record straight on the "competence" of local governments in Malaysia. In other words, how is the power of a local government derived?

The Commission made it clear that in Malaysia, following Anglo-Saxon tradition, local governments

are decentralised units. In other words, they are not merely a federal or state government department, but are quasi-autonomous units in themselves – a far cry from the actual situation today. Although in principle, local governments today are still decentralised units, due to the gradual surrendering of autonomy and authority to the federal and state governments, people view local governments as merely deconcentrated units of the two superior governments.

A thorough reform carried out today in the spirit of the Report should therefore include the return of not only the third vote through democratic election, but also the third tier of government through decentralisation. Otherwise, at best, we will simply be electing local councillors to run a powerless council that constantly has to answer to the federal and state governments. Surely that runs counter to the idea of having local elections in the first place.

The spirit of the Athi Nahappan Report is evident throughout its pages: the third tier of government should be democratic and decentralised local authorities that enjoy financial autonomy, covering every inch of the land (para 676, pg. 133). This was so important to the Commission that its Report even suggested the abolishment of the position of District Officer (DO) whose role was to be replaced by the Secretary of the local authority, who was to be "the chief executive as well as the chief administrator" of the local authority (para 781, pg. 162).

One of the proposals was for "a single composite local authority to be established coterminous with each of the administrative districts..." (para 670 (i), pg. 132).

This in effect means that the office of the DO would be superfluous. While the Secretary of the local authority would take over the key administrative, development and welfare functions of the DO, a separate full time Collector answerable to the state government would be appointed to deal with land revenue matters (para 789-790, pg. 164).

The situation today is rather different. Because mayors and presidents are career civil servants appointed by the state government, the role of the chief executives is often confused, falling as it does between them and their respective Secretaries. This is despite the Local Government Act 1976 defining the Secretary as "the Chief Administrative Officer".

A mayor or president in the Athi Nahappan Report is "the ceremonial head of the local authority and plays the role of first citizen in the district..." (para 715 (iii), pg. 145). The mayor and president would be elected from among the councillors elected in local elections, and should hold office for one year. Although the mayor and president would preside over Council meetings, they were not to be the executive heads of their authorities; that final function would fall to the Secretary. (para 712-713, pg. 144) To elucidate using a weak analogy closer to home, the mayor would play the role of the governor of Penang rather than the chief minister.

The qualification of councillors

A substantial part of the Athi Nahappan Report was dedicated to relooking the key positions behind a local authority, from councillors to mayor to the secretary and principal officers. One significant concern was the qualification of the councillor. The Report recommended that candidates of local election should require a certain level of education.

In the Local Government Act 1976 which governs local authority throughout Malaysia today, Section 10(2) states that education is not a prerequisite, but councillors should "have wide experience in local government affairs or who have achieved distinction in any profession, commerce or industry, or are otherwise capable of representing the interests of their communities in the local authority area". This criterion, although criticised by some for being too general and ambiguous, in our opinion, better fits the role of a councillor who deals with day-to-day local issues of concern to the people.

Although rare today, yet due to the lack of specific criteria on education, there are still cases of persons who are illiterate being appointed to a councillorship. This sometimes raises the frustration of critics who opine that an illiterate councillor will not be able to execute his duty effectively. For example, how is he to deal with financial statements and development proposals or any of the council's documents presented to him for deliberation? Yet there are others who think that for a councillor, educational level is not as important as a heart of service.

This is not a new contestation. The Athi Nahappan Report ruminated over these arguments in its short segment on the issue. In the end, the Report chose to include education as the main criterion given that "in a developing country like Malaysia, it is very important that those who play leading roles must have some literate education. Democracy can only be well fertilised by knowledge and understanding for which education is the tool" (para 627, pg. 121).



Just how much do our councillors earn? (The answer: not much, for the workload)

When we consider the recommendations of the Athi Nahappan Report, it is necessary that we note the stature of local authority then and now. To illustrate our point, let us consider money matters. Finance is after all a good measurement of importance though not the only one.

Even at the time of Athi Nahappan Report, it was already acknowledged that "the workload of a councillor was considerably more than that of a Member of Parliament or state assemblyperson. A councillor had more meetings to attend than either of them and he was more involved with deliberative and administrative roles than a Member of Parliament or state assemblyperson... a councillor had more work to do than a senator in that he was required to attend more meetings than a senator and had to serve an electorate unlike a senator" (para 876, pg. 192-193).

Four years ago, one of the authors, Sim, was appointed a local councillor at the Seberang Perai Municipal Council (MPSP). As a councillor, he was given a monthly fixed allowance of RM700 as well as a meeting allowance of RM100 claimable for up to six meetings attended (the seventh meeting onwards was not claimable). Thus, a local councillor at that time would be given a maximum remuneration of RM1,300 a month.

Compare this to the minimum wage for councillors set by the federal government in 2014 at RM900 per month.

Today, after a recent review of their remuneration, a local councillor in Penang receives a monthly fixed allowance of RM1,500 plus an RM300 phone allowance. A councillor is allowed to claim RM100 meeting allowance for up to 12 meetings. The maximum remuneration has gone up to RM3,000 a month.

While this is hardly an attractive package, it is still way above the sub-minimum wage allowance given during Sim's term as councillor. Compare this to the fixed allowances of Members of Parliament, including senators and state assemblypersons, in Malaysia, which range from RM6,000-RM12,000 a month.

If remuneration is a measure of pre-eminence, in the 60s, both councillors and state assemblypersons were almost equal in stature. However, today, state assemblypersons receive an allowance that is at least four times higher than that received by councillors in Penang. This is excluding additional allowances that state assemblypersons may receive, apart from a lifetime pension to which councillors are not entitled.

As the Report stated 50 years ago, without a decent remuneration, it "occasioned undue hardships to councillors with lesser means" (para 875, pg. 192). This may even alienate those "with lesser means" from taking part meaningfully in this process of local democracy. The Report's recommendation was to make uniform the remunerations to mayors and councillors in all the local authorities in the country. It also attempted to narrow the gap between the allowance given to councillors and state assemblypersons.





Local authority's prestige reduced

The pattern is obvious: there is a major reversal in the prominence of local authority. The attention and investment given it is not commensurate with its import. This is perhaps a consequence of there being no local elections; the local authority is now viewed as merely a government department instead of a government in itself. Its power has been eroded and the eroding through a systematic usurpation by the federal and state governments.

In the heyday of local governments in our country, notably in the 1950s and early 1960s, local authorities such as the Penang City Council were at the forefront in advancing progressive policies such as social housing and major public infrastructure projects such as drainage, public toilets (a novel idea at that time), mobile clinics and even a dam (Air Itam Dam). The first social housing in our country, People's Court at Lebuhraya, built in 1961 and standing to this day, was the result of a joint effort between the Labour Party-controlled Penang City Council and the Alliance federal government. The fact that they were opposing political parties did not stop them from working together.

Innovations at the local authority level did not disappear with the abolishment of local elections. For example, local authorities in Penang were the first ever in Malaysia to successfully introduce a mobile complaint app equivalent to the so-called "3-1-1 app" in the United States. Both the Penang Island Municipal Council (MPPP) and the MPSP were also at the forefront of adopting gender responsive and participatory budgeting in their budgeting process – something which the federal government had been trying to do since 2003 but failed to this day.

Yet, work and successes at the local authority level are rarely highlighted in the media. Councillors who work tirelessly to serve the daily grouses of taxpayers and advocate and implement policy innovations remain anonymous, giving way to the "big players": the Najibs and the Anwars at the national level.

Federal-state-local relations

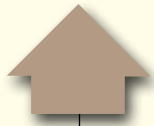
The Report lamented "the multifarious legislation governing local authorities", how "it is like breaking through a veritable legal jungle to lay one's hand on a specific point" and "there is no doubt that this is a most unsatisfactory state of affairs. In any event, the need for uniformity of the local government law cannot be overstated" (para 684, pg. 134).

As such, the Royal Commission recommended the enactment of one composite law that would supersede all existing laws to govern local authorities throughout the country. The law was to be named "Local Government Act" and was eventually created in 1976. What this sought to do was not so much to usurp the power of local authorities, but to synchronise the workings of local authorities in the whole country.

However, the Royal Commission had further recommended the creation of both state and federal commissioners to exercise control over local authorities. Local authorities were also to be subjected to "the directives issued by the state governments on matters of national or state importance" (para 559 (iv), pg. 106). Additionally, the Report also recommended that "the state government should have legislative, administrative and financial control over the local authority" (para 831 (i), pg. 177).

The Report sought an extreme harmonisation of the federal-state-local relationship based on three primary factors: 1) the contradictions between local authorities and state governments controlled by different political parties, 2) the unchecked abuses of local authorities, 3) the imbalance of strength and unequal distribution of resources among the different local authorities.

Now, besides having more control over local authorities, the federal and state governments had a duty to assist local authorities in matters ranging from staffing to grants and loan and advisory services. For example the Report recommended the formation of a "Local Authorities Credit Fund" with a startup capital




of \$50mil. The purpose of this fund was to provide loans at reasonable interest to assist local authorities finance major capital projects as well as provide expert financial and technical advice on such matters (para 1034, pg. 240).

Today, local authorities are effectively subjected to the control of state governments, from the appointment of councillors and mayors to the hiring of staff and the approval of budget as well as other policy and proposals. There is obviously a deviation from the spirit of the Report which envisioned democratic, decentralised and autonomous local authorities. Obviously, more participatory space and stronger autonomy need to be returned to our local authorities. It is not merely about having local elections, but it is also about greater consultation and transparency in our local authorities.

The ideas revisited

Fifty years have passed since the suspension of local elections on 1 March 1965 by the federal government. The Athi Nahappan Report remains a testament to an unfinished task – the continual improvement of our local authorities. Although we clearly have a different context from that in Senator Athi Nahappan's time, the Commission's Report provides an important fundamental as well as historic understanding of the workings of local authorities in our country.

As the call for democratisation and decentralisation gains momentum, it is apt that the Report be subjected to a modern-day review and then be updated to provide a blueprint for the local authorities of our future. 

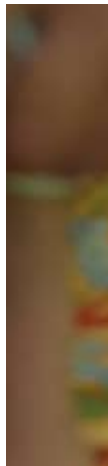
This article first appeared in Penang Monthly.

See Part 1 at pg. 16.



Will Local Government Elections Erode Malay Rights?

By Saifuddin Abdullah,
CEO, Global Movement of Moderates (GMM)



I have started discussing and supporting the restoration of local government elections in Malaysia since 1986, when, as a Supreme Council Member of the Malaysian Youth Council, I presented a paper at an international conference on local authority, organised by Hanyang University, in Seoul.

In 2007, I was appointed a Councillor of Temerloh. I resigned, after six months, to stand for the Temerloh Parliamentary Constituency in the 12th General Election in March 2008 and was elected as Member of Parliament for Temerloh until 2013. I realised that there were no local government elections - the District Action Council was chaired by the District Officer and the Local Council was chaired by the President, this system was not participatory or representative enough. I subsequently established a grass roots mini-parliament called Temerloh Parliamentary Consultative Council.

Today, I continue to articulate this stand point in my speeches, books and columns in local newspapers.

I am well aware of some of the legitimate concerns over having local government elections, for example, the system, the candidates, the voters, etc. It is also not a magic wand that once implemented will solve all our problems. But this should not deter us from pushing the agenda forward, as we are confident that local government elections will bring about more good than bad, especially concrete improvements in five aspects: the democratisation process, governance framework, substantive inclusiveness, integrity and evaluation.

On the question posed to me: will local government erode Malay rights? My answer is No. This is based on the following four reasons.

Firstly, we must have the right world view and interpretation of the meaning of being a Malay (and a Muslim). I do not subscribe to the notion of Malay supremacy. Instead, I subscribe to the idea of equality as stated in Article 8 of the Federal Constitution: "All persons are equal before the law..." and "there shall be no discrimination against citizens on the ground of religion, race, descent, place of birth or gender..."

Article 153 of the Federal Constitution does "...safeguard the special position of the Malays and natives of Sabah and Sarawak..." But, the special position, according to Suffian and other constitution experts, is about allowing for affirmative action. Besides that, it does not cover all aspects. In fact, it covers four areas only: federal public service, scholarships, education and permit or licence. And even in the areas that it covers, it should not be over stretched to mean everything within that area. For example, in public service, Article 153 should be read together with Article 136, which states that "All persons of whatever race in the same grade...be treated impartially".

Article 3 of the Federal Constitution states that "Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the federation." This article must be read in full, and interpreted and implemented as such. What is even more important, is for the Malays, as Muslims, to act as good Muslims. In this context, the Quran provides sufficient guidance. Islam is "a mercy to all

(Muslim and non-Muslim)" (al-Anbiya:107). Islam acknowledges and celebrates plurality and diversity. Because, if Allah so willed, "He could have made you all one people" (an-Nahl:93). But, Allah "have created you from male and female, and made you peoples and tribes that you may know each other (not that you may despise each other)" (al Hujurat:13).

Islam upholds the principle of religious freedom: "Let there be no compulsion in religion" (al-Baqarah:256). Islam forbids Muslims from causing discomfort to peoples of other faiths: "Revile not ye those whom they call upon besides Allah" (al-an'Am:108). In fact, "It is part of the mercy of Allah that you deal gently with them" (al-Imran:159). Islam encourages the use of "wisdom" and dialogues "in ways that are best and most gracious" (an-Nahl:125). And even if there is dispute, "let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety" (al-Maidah:8).

Secondly, according to the 2010 census data analysed by MP for Serdang Dr Ong Kian Ming, the majority of the local councils in Malaysia are Malay majority areas. For instance, the Malay population in Kuala Lumpur (45.9%) outnumbers the Chinese population (43.2%). Out of the three city halls, nine city councils and 37 municipal councils, only six have populations where the non-Malays outnumber the Malays: Ipoh, Kuching Selatan, Johor Bahru Tengah, Pulau Pinang, Sibü and Subang Jaya. In other words, 88% of the large urban areas have a plurality, and in most cases, with Malay majority residents.

Thirdly, we can always come up with systems and mechanisms to ensure the inclusiveness of all groups, including the minorities, and to prevent unfair discrimination to anyone. This may come in the form of zones within the Council area and composition of members of the Council.

Based on the above reasons, one should not be worried with the allegations that the rights of Malays will be eroded through local government elections.

Finally, things have changed. Today, the electorate is more colour blind. More and more are citizens are not voting along racial lines, and are considering other factors. Besides that, according to the Malaysia Human Development Report 2013 (edited by Dr Kamal Saleh and published by the UNDP), inter-ethnic inequality is currently less than 5% of the problem. Instead the new challenge is in the form of intra-ethnic inequality, which is about 95% of the problem.

Another interesting development is the impact of what I term as the 'New Realities' of today. The New Realities comprise two components: universal (ICT/ social media, new social consciousness/movements and the third phase of democracy) and local (educated citizenry, urbanisation and the middle class). The six elements combined have empowered a new generation of Malaysians, whom I refer to as the 'New Middle Ground', comprising of students/youths, teachers/ academics, professionals, technocrats, entrepreneurs and the middle class.



The New Middle Ground thinks differently, including not limiting themselves to looking at things from ethnic angles. Many are calling for a migration from race-based policies to needs-based policies. Some researchers, for example, Anthony Milner, Abdul Rahman Embong and Tham Siew Yean, are already contesting the race paradigm. Our race paradigm is a man-made ideological or political construct.

I am not suggesting that we forgo our ethnicity. I believe in diversity and plurality. In fact, we should celebrate it, as in the actual sense, unity in diversity is the soul of our beloved country. But, surely, besides race, there are other emerging dimensions of political competition, for example, justice, good governance and democracy.

In conclusion, for the future of Malaysia, we must be brave and bold enough to ask the hard questions and make the difficult decisions. This includes articulating for a new non-racialised form of politics and promoting trans-ethnic solidarity.

Let's move on, by saying that local government elections are not about race. Q



**Taken from the text of Special Address at the Conference on Local Authority in Malaysia: Revisiting Athi Nahappan Report for Our Times, organised by REFSA (Kuala Lumpur, 13 March 2015).*

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Local Democracy: More Politics or Less?

By Liew Chin Tong,
Chairman, REFSA
MP for Kluang, Johor

There are two sets of contradictory ideas when it comes to the discussion of local democracy in Malaysia. While many call for local elections, there are also some activists who call for “less politics, more professional appointments” to the local councils.

At a conference on decentralisation in Penang in September 2014, a social activist and local councillor said that Malaysians should emulate Seoul for electing an NGO mayor, he went on to argue the ills of having politicians at the council level.

I have met Park Woon Soon, a human rights lawyer turned social activist turned mayor of Seoul, twice.

Park was a reknown human rights activist until 2000 when democratic elections took a firm root in Korea. He switched to social activism and formed various groups to encourage more participation in the governance of the community’s daily lives. Groups were formed to improve bus routes or community facilities and Park called these “do tanks” as opposed to “think tanks”, which he regarded as talk shops.

I met him for the first time at the Hope Institute in 2010. The second time I met him was at the Seoul mayoral office in August 2012, a year after he won a by-election. He has since become the Opposition’s strongest contender for the next presidential election.

His rise from NGO mayor to the nation's No. 1 opposition politician is certainly a fascinating one.

Indeed, in all of Asia's three most successful democratic transitions from authoritarian rule - namely Korea, Taiwan and Indonesia - local elections have played a crucial part. Without local democracy, new emerging leaders like furniture exporter Jokowi could not have gained credibility as an administrator which he later used against his opponent Prabowo, who hailed from an elite background.

When there are more politics at local level, it is possible for more risks and experiments to take place, without having a negative effect on society as a whole (as can sometimes occur once new politicians or political parties assume power).

Of course, popular mayors may not necessarily become good presidents; Taiwan's Chen Shui-bien and Korea's Lee Myung Bak are clear examples of such failures.

If we take stock of democratic transitions in Asia, one could even argue that while democracy has brought significant gains in liveability to cities in Korea and Taiwan (and, to a lesser extent, Indonesia), national politics in these countries are still less than optimal in delivering general wellbeing to the voters.

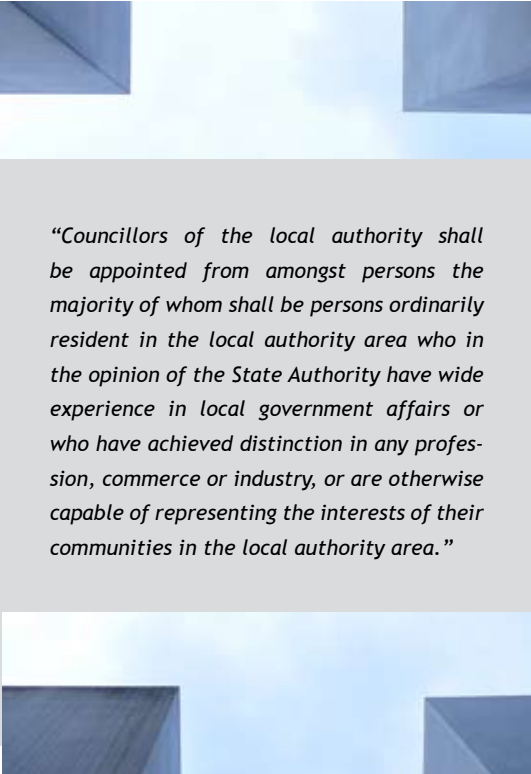
At the same decentralisation conference in Penang, a senior Ipoh-based lawyer claimed that, "there is no politics in garbage collection hence there should be no politicians at local level of government."

I gave the lawyer a lengthy reply about how garbage collection contracts are one of the most important spoils of office for local councillors and how removing those contractors through direct hiring would generate jobs for locals. (I will discuss the changes at the Seberang Perai Municipal Council which ended all outsourced garbage collection contracts in July 2014 in a future article).

One of the funniest news of 2014 was when Local Government, Housing and Urban Wellbeing Minister,

Abdul Rahman Dahlan announced his intention to take over the management of all public toilets in the peninsula. Apparently the contractual value of cleaning toilets was worth the risk of public ridicule. Hence there is plenty of politics in garbage collection and even in the cleaning of public toilets!


The advocates of "less politics in local governments" often cite Section 10 (2) of the Local Government Act 1976,




"Councillors of the local authority shall be appointed from amongst persons the majority of whom shall be persons ordinarily resident in the local authority area who in the opinion of the State Authority have wide experience in local government affairs or who have achieved distinction in any profession, commerce or industry, or are otherwise capable of representing the interests of their communities in the local authority area."

For nearly 40 years since the Act has been enforced there were very few councillors who had achieved professional "distinction". To assume that professionals are better at representing the community's interests is unrealistic. To assume that one can abolish politics at local level is simply naïve.

The Athi Nahappan Report (1968, pg. 3) has this to say:



"As a technique, democracy is slow, cumbersome and expensive. Nevertheless, there is strong force in saying that democracy should continue to be identified with local government in this country as in the case of the Federal and State Governments. True, it has not worked effectively in most local authorities, particularly the Local Councils. The remedies lie not in doing away with democracy but in finding suitable avenues to invigorate it. In Malaysia, the road that democracy has travelled in the field of local government is very short and fragmented, both in terms of space and time. No great damage has therefore been done to warrant complete replacement of democracy. What defects that have been experienced can also be attributed to other causes that need a complete innovation, co-ordination and consolidation to improve the system."



Hence the argument that we need less politicians at the local level of government is flawed and inconsistent with the call for full-fledged local democracy via elections.

Yet to have elections of local governments without re-arranging our three-tier democratic institution is a recipe for disaster. Currently, power is concentrated in the Federal Government (and actually in the hands


of the Prime Minister) while States have very limited powers. On the other hand, local councils have significant powers in dealing with the daily lives of ordinary citizens.

In 2014, 16 local councils' budgets exceeded RM100 million, and four local councils' budgets exceeded RM250 million - City Council of Pulau Pinang, City Council of Shah Alam, City Council of Petaling Jaya and Municipal Council of Subang Jaya. Ironically, the 2014 budget for the Perlis State Government was only RM244.5 million.

If the local councils ceased operations the consequences would be instantly noticed, as grass cutting, drain clearing, road maintenance and local businesses fall under the purview of the local authorities. I used to joke that no one would notice so if the State shut down for a year as the State doesn't control much apart from natural resources (including water), local councils and religious affairs.

The Local Government Act 1976 was designed so that the local authorities serve almost as a branch of the State authorities. Without devolving powers and the roles of the Federal Government to the States, and without redesigning the local councils, local elections would give rise to a competition for power between the States and the local authorities (which is not the intent of those who advocate for local democracy).

Hence local democracy has to come together with the decentralisation and devolution of powers from the Federal Government to the States to complete the reform.

Should we have more politics at local level? I say "yes". 





Beyond Local Government: Making Kuala Lumpur a State

Compiled By REFSA

On 1 February 2015, REFSA organised a public forum on “Beyond Local Government: Making Kuala Lumpur a State” in conjunction with Federal Territory Day.

Three prominent panelists - REFSA Chairman Liew Chin Tong, Penang Institute Fellow Dr. Wong Chin Huat and Kuala Lumpur Action Council Representative Ishak Surin - delved into issues from the perspective of public governance, Malay politics and practice. The forum was chaired by the Executive Director of REFSA, Steven Sim Chee Keong, and the session was opened by a veteran Kuala Lumpur Member of Parliament for Cheras, Tan Kok Wai.

Tan Kok Wai : Amending the Constitution to transform KL into a state

Tan Kok Wai stated that turning Kuala Lumpur into a state would create two levels of governance, namely a state government and a local council, which would be able to provide better check and balance.

Currently, Kuala Lumpur City Hall's (DBKL) itemised budget is not publicly revealed. It also

does not have councillors and is only accountable to the Federal Territories Minister.

This year, DBKL was allocated RM2 billion from the Ministry as part of its budget.

This is unlike other states where the budget for municipal councils are tabled at the respective council meetings for debate and approval by councillors.

“This will ensure greater transparency on DBKL's expenditure,” explained Tan.

Kuala Lumpur was made Malay-

sia's capital when the country achieved Independence in 1957 and it was accorded city status in 1972. Two years later, it became a Federal Territory.

Tan said that changing Kuala



Lumpur's status was possible by amending Articles 1 and 154 of the Federal Constitution, as well as other relevant legislation such as the Federal Capital Act 1960.

Article 1 provides for the establishment of the 13 Malaysian states and the three Federal Territories of Kuala Lumpur, Putrajaya and Labuan, while Article 154 contains provisions for a federal capital.

The Federal Capital Act, meanwhile, is a consequential legislation of the Constitution.

"It is legally and technically possible to do so," said the five-term MP.

Liew Chin Tong : Abolishing the redundant Federal Territory Ministry

Liew Chin Tong said that the current Kuala Lumpur govern-



ment was "too secretive" about its itemised budget allocations.

"KL is a unique animal. The budget is so big that it is not accountable to anyone. In any local council, you have to present the budget so that anyone can view it, but in KL, we can't even see the itemised budget and that is ridiculous," he said.

To push for a more transparent local government, Liew asked that DBKL table its yearly expenditure report in Parliament, where it can be debated.

Liew also called for the abolishment of the Federal Territories Ministry, saying that the Ministry was just a "job created for Tengku Adnan Tengku Mansor (Federal Territories Minister)".

"Many of its functions overlap with that of DBKL's, which should be democratised," he added.

He believed that taxpayers could save RM83 million in federal administrative costs, which covers salaries for its Ministers, their offices, and the Secretary General. There is also a need to make DBKL accountable to Parliament and the appointment of the mayor should involve parliamentary endorsement.

The Johor MP added that the capital city now is "not good" as the current governing structure

is too secretive. He agreed that turning Kuala Lumpur into a state would promote transparency, especially with regards to its budget and election of mayors.

He proposed that DBKL table its yearly expenditure report to Parliament and have its budget debated in the assembly. Having local government elections would not only make the city more dynamic and livable, but also make it more accountable, democratic and transparent.

Wong Chin Huat: Pakatan Rakyat cannot be a Barisan Nasional 2.0



According to Wong Chin Huat, the perception of "Malays losing power" was prevalent in some quarters in Pakatan Rakyat, impeding efforts to restore local democracy. These misguided fears of losing racial dominance

are preventing the restoration of local democracy.

This fear was recently expressed by PAS President, Abdul Hadi Awang, who said that holding local council elections would lead to another May 13. He said the election of many non-Malays into local government would cause dissatisfaction amongst the Malay community.

Hadi was criticized for his view by opposition leaders, especially from the DAP; DAP leaders see the push for a strong local democracy as a move for greater transparency and efficiency with regards to local issues.

The rhetoric offered by the Islamic leader was very similar to the style of UMNO, who typically speak of May 13 to create an atmosphere of doubt and fear among the Malay community usually to resist change or democratisation.

"Their interpretation of Malay power (kuasa Melayu) is that Malays are always in power; it doesn't matter if the Malays in power are corrupted tyrants," Chin Huat said.

"It's better to be tortured by a Malay (leadership) than to be loved by a Kafir (non-Muslim)," he said of certain groups who insist on having Malay leaders regardless of credibility.

Another interpretation of Malay

power, Wong said, is that Malays have the power to vote out leaders who do not work for the welfare of the people.

Wong explained that Pakatan leaders, must not have fears of losing power in the local councils, as this would be akin to Barisan Nasional leadership.

"Pakatan Rakyat cannot be a Barisan Nasional 2.0," he said.

Ishak Surin : Choosing capable councillors

Ishak Surin believed that councillors should be elected on the basis of merit and not their ethnic group. Adding that it was not right to look at the issue



of restoring local government elections from racial and religious perspectives.

"What has the Mayor of Kuala Lumpur done for the city? What is his function? He has none. It is

a 'given' position," he stated.

Ishak who is also the PAS Batu Division Chief said that if local government elections were restored, it would enhance the public service.

"Look at our neighboring cities like Bangkok, Manila, Taipei and Jakarta, all of them have local government elections. But what does Malaysia and Kuala Lumpur have? What does Federal Territory Day mean? It means nothing."

Sources: *The Malaysian Insider*, *Roketkini*, *The Rocket*



Kuala Lumpur – City-State of the Future?

By Lam Choong Wah, Senior Fellow, REFSA



With its significant financial assets and dense urban population, Kuala Lumpur should lead the push for local democratic reforms.

Years ago, when I was a rookie journalist covering an assignment, a local leader gave me a hot tip which still rings true today. He told me that any party that manages local government matters well, would have the upper hand to wrest control of Putrajaya.

As he explained, local government is the immediate authority and the first “point of contact” that the voters have to deal with to settle their daily matters. Everyday grouses involving roads, street lamps, assessment rates, waste disposal, land matters and local utilities fall under the jurisdiction of local authorities rather than the Federal Government.

There’s no sophisticated political science to back this argument, but there is evidence to suggest the theory’s plausibility. Take for instance, the experiences of Ma Ying Jeou, Narendra Modi and Joko Widodo, who each rose to the helm of government in Taiwan, India and Indonesia respectively. All of them had experience administrating local governments, and it served them well.

In particular, Joko Widodo (better known as Jokowi) fully utilised his capacity as Governor of Jakarta and Mayor of Surakarta to transform the cities into centres for art and culture and tourist attractions. These successes in turn served as a stepping stone for him to seize the presidential office. We, in Malaysia, can draw lessons from these examples too.

Background of The Third Vote and how it was abolished

Half a century ago, the British colonial government introduced local government elections during the height of the Emergency period (1948-1960) in Peninsular Malaya. The official reason given was that local gov-

ernment elections would serve as a first step to prepare Malaysians for self-governance and eventually, independence. This was also part of the colonial government's public relations effort to show its sincerity in giving space for locals to be involved in governance.

It helped the colonial authority win the hearts and minds of moderates and tipped the scales in their favor in the struggle against nationalist and Communist movements. To facilitate local government elections, two laws were passed - the Local Authorities Elections Ordinance (1950) and subsequently the Local Council Ordinance (1952).

Prior to this, there were three categories of local authority - Municipalities (such as George Town, Malacca and Kuala Lumpur); Town Boards; and Rural Boards.

After 1950, Town Boards were converted to Town Councils, which were directly elected by voters. Municipalities were retained and Rural Boards were converted into Rural District Councils. Local Councils were created to administer areas not covered by the previous three authorities.

The core idea was to incorporate the electoral system into local authorities.

This was backed by Bedale's recommendations. On 20 August 1952, H. Bedale, Town Clerk of the Hornsey Borough of England was commissioned by the colonial authority for a period of six months to advise the Government of the Federation of Malaya on the establishment, organisation and supervision of local authorities.

One of his recommendations was to conduct a periodical review to convert more Town Boards into Town Councils, this suggestion was well-received. As of 1958, 32 Town Councils and 302 Local Councils were established.

Table 1: 302 Local Councils set up within eight years

	1 October 1958
City Council	1
Municipal Councils	2
Town Councils	32
Town Boards	46
Rural District Councils	7
Local Councils	302

What does it mean for the Federal Territory of Kuala Lumpur to acquire the status of a state? This is not unimaginable given that Kuala Lumpur's annual budget and its population are larger than many other states in Malaysia.



In 1968, local government elections achieved a significant milestone where all Chairpersons and councillors of Municipalities were elected executives, while all Chairpersons of Local Councils and 83.5% councillors were elected. On average, the elected chairmen and councillors accounted for 78.8% of overall members.

Table 2: All Chairpersons of local authorities were elected members, 1968

		Number		Chairman		Total Numbers of Councillors/ Members	
		Elected	Nominated Officials	Elected	Nominated Officials	Nominated Unofficials	Total
Municipalities	3	3	-	45	-	-	45
Town Councils	37	7	30	424	130	44	598
Town Boards	37	-	37	-	195	335	530
Local Councils	289	289	-	2446	120	364	2930
District Councils	7	4	3	108	3	9	120
Total	373	303	70	3023	448	752	4223

However, the outbreak of Konfrontasi between Malaysia and Indonesia resulted in the Federal Government declaring a state of emergency and suspending local government elections. The suspension which came into force on 1 March 1965 has not been reversed.

Case study: George Town, Penang

Apart from the Konfrontasi factor, party politics was the other factor that led to the suspension of local democracy.

The present day struggle between Pakatan Rakyat and Barisan Nasional had its precursor in the early 1960s after the Alliance Party (the predecessor to BN) controlled the Penang State Government, while the Socialist Front (Then Opposition coalition) seized the City Council of George Town.

When the Federal Government declared the end of the state of emergency against the Communist threat in 1960, all local authorities were requested to decorate towns and raise the National Flag. However, the City Council of George Town refused to follow suit and went against the Penang State Government's order. The outraged Penang State Government then bulldozed the amendment of the Municipal Ordinance in the State Legislative Assembly to empower the State Secretary to take over the Council's role in taking necessary actions in respect of an event of national importance or of special significance to the State.



When the Socialist Front again defied the State Government's order to celebrate Malaysia Day in 1963, the latter immediately exercised its new powers by instructing the State Secretary to mobilize the City Council's resources to celebrate the occasion.

A question of "Efficiency vs Democracy"

Ironically, the state of emergency continued although Konfrontasi ended in 1966, as the Government claimed that the country was still under threat from subversive Communist elements. The Government preferred to maintain emergency rule to ensure uniformity of policy and increase local administration efficiency.

Even though the issues between State and Local Governments in George Town were settled through legislative and democratic methods, it became a political weapon frequently used by the ruling party to reject any proposal to revive local government elections.

Another frequently cited reason to deny local elections is the argument that local government elections would only benefit urban residents while rural residents will be marginalised in terms of finance and resource sharing.

Recently, the President of PAS, Hadi Awang, and Minister of Wellbeing, Housing and Local Government, Abdul Rahman Dahlan, cited these reasons in supporting their view that local government elections should not be reintroduced.

Are the above reasons valid?

The insightful findings of the Athi Nahappan Commission are useful in delving into this discussion. A Royal Commission of Inquiry led by the late Athi Nahappan investigated the function and effectiveness of local council elections. The resulting report was four volumes long and two feet high when stacked up! It

is regarded as one of the most thorough and comprehensive reports produced by the Government.

In contrast to what Hadi Awang and Abdul Rahman Dahlan believe, the Athi Nahappan Report recorded that "In the long run a healthy, vibrant participation of the citizens at all levels of public administration is more desirable... Democracy with efficiency is always more desirable and better than efficiency without democracy" (p. 102)

Furthermore, it recorded that, "we were impressed by the fact that most rural people felt democracy had come to stay and that they would not bargain for anything less. This may due to the fact they now do see the value of their rights to discuss, deliberate and decide on matters of local interest." (p. 55)

With regard to the George Town turmoil, it concluded, "the fact that the State Government could do this (empowering the State Secretary to override City Council Chairman's decision) clearly indicates that the power was there for the State Governments to invoke and to avert the kind of embarrassing situations that arose. Therefore, conflicts of this nature are curable with relative ease..." (p.103)

It is worth noting that the Athi Nahappan Commission made the observations based on digesting 71 proceeding records and memoranda, or written evidence submitted by 315 organisations and individuals.

Kuala Lumpur as a state?

After the Penang and Selangor State Governments were taken over by Pakatan Rakyat in 2008, efforts were carried out to restore local government elections as advocated by the Athi Nahappan report.

Nevertheless, these efforts encountered the biggest set back in August 2014, when the Federal Court ruled that only the Federal Government had the jurisdiction to dictate when and who could hold local government elections.

A new approach is needed in order to break this deadlock.

Kuala Lumpur, the capital of Malaysia, was one of the early municipalities which was progressive enough to enjoy local government elections after Merdeka. Even capital cities such as Washington D.C. , London and Canberra did not have municipal elections.

However, the “good times” did not last for long and Kuala Lumpur was also the first municipality to be stripped of its electoral rights.

The enforcement of the Federal Capital Act 1960, repealed the Federal Capital (Municipal Elections) Ordinance 1958, and stipulated that the capital would be administered by a Commissioner (Mayor in layman term) and an advisory board.


While the Federal Government was busy consolidating the non-elected Commissioner’s power, the US, the UK and Australia moved forward to introduce the electoral system to its’ respective capitals.

The Australian model went even further with the Australian Capital Territory (Self-Government) Act in

1988 which granted Canberra the right to set up its own Legislative Assembly and appoint its own Chief Minister.

Kuala Lumpur possesses more resources than other Malaysian states which should entitle it to statehood. In terms of financial status, the KL City Hall’s annual budget has averaged RM2 billion over the last 10 years. This is larger than every state budget except for oil rich states, including, Terengganu, Sarawak and Sabah.

Furthermore, Kuala Lumpur’s population is the seventh highest compared with the thirteen states which provides solid financial autonomy and personnel capacity to achieve greater self-governance.

While the efforts in Penang and Selangor to restore local governance have hit a roadblock, perhaps it is timely to open the third local democratic battlefield led by KL-ites. 



REFSA, The City Institute

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Today, building on our twin values of rigorous and yet accessible research, REFSA aims to position ourselves as the City Institute of Malaysia, offering policy-level ideas and solutions on governing our cities and towns.

We engage with policymakers from across the spectrum, academics, and activists drawing from their knowledge and experiences and then offering our analysis to improve governance and policymaking.

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