

# TRANSFORMING LOCAL GOVERNMENT IN MALAYSIA: IMPLICATIONS FOR CENTRALIZATION AND DEMOCRATIZATION

转化中的马来西亚地方政府  
——中央集权化与民主化的寓意

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## Abstract

In Malaysia, the federal structure of government has to a certain degree influenced inter-governmental relationships at the central, state and local levels. Although states are subordinate to the federal government, they do possess some semblance of autonomy and independence. However, local government, given its position as the third tier of government, is not privileged to such largesse. This is because under the Federal Constitution, local government is a state matter and the National Council of Local Government permits the exercise of central government powers over local government. Nevertheless, many pressing national issues and problems do require the involvement of local government in addressing some of these concerns. To tackle these problems, it is necessary for local government to be strong politically and structurally. There is a need to review the position of local government by giving it the autonomy and certain powers to act independently and quickly and to recognize it as a level of decentralized government.

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Globally, there is recognition that local government is best placed to handle the local challenges of poverty, crime, health, climate change, public participation, migration and a host of others. This means empowering local government rather than curtailing its role and subjecting it to further central control. The crux of the transformation of local government is to loosen central control and devolving powers to local government with the necessary resources. This will enable local government to be more creative and seek opportunities for itself and its local community. After all, local government is the basis for participatory governance and its transformation into an effective level of government will be a reflection of the federal government's support for local democracy and decentralization.

### 摘要

在马来西亚，联邦政府的结构在某种程度上左右了中央政府、各州政府以及各级地方政府之间的关系。各州政府虽然从属于中央，却具有某些自治与独立的象征；而地方政府虽然居位第三，却并未被赋予太大的权力。这是因为联邦宪法里头，地方政府属于国家事务，而且全国地方政府理事会允许中央政府对地方政府行使权力。然而在出现许多迫切的全国性争论和课题时，通常也须要地方政府的参与和提供见解。要解决这些问题，就须要地方政府在政治上与结构上强化起来。必须做到的是：检讨地方政府的地位，赋予自治权以及某种权力，使其能够独立运作，同时承认它是政治分权的一个层次。

就全球的观点而言，地方政府已经被认为是具备最有利的地位，以解决和处理大量地方上所面对的挑战，如：贫困、犯罪、卫生保健、气候转变、民众参与、移民等等以及其他各种问题。这意味着：应该授权地方政府，而不是削弱它应该扮演的角色并且依附中央，受其无限管制。改革地方政府的关键在于：松解中央的控制，移交权力予地方政府并提供所须的资源。这会使得地方政府更具有创造性，为自身及其地方社群寻获良机。到达这种程度时，地方政府成为群众参与政治管理的基石和平台，当它达到高效率政府的水平时，就能反映出联邦政府支持地方民主与政治分权制度。

### Local Government Context

Local government is often described as a stable set of institutions with established functions and a fixed structure. Contemporary local government functions include formal duties, administrative structures and relevant powers which are important to the whole system and survival of local government. In Malaysia, local government represents the third tier of government and is closely associated

with the grass roots, i.e. the people and the community it represents. Due to its proximity to the local community, local government in Malaysia and elsewhere has a profound effect upon the lives of the people it serves. It has always had an important role to play and more so in the future with the influence of liberalization and globalization which can lead to changing the norms, behaviour and expectations of the local people. Yet, at the same time, local government has to grapple with rising urbanization, unprecedented growth of cities and towns, population increases and a host of related issues such as urban poverty, crime, economic disparities and rising prices of goods and services. Certainly, these are related to the core functions of local government and undoubtedly challenge its capacity to cope.

Since its inception, Malaysian local government had undergone periods of political and administrative transformation that were supposed to enable it to manage the changing expectations of the local community. However, the consequence of increasing community demands over time has resulted in an "expectation gap", where the needs and expectations of the community cannot be adequately and efficiently met by the serving local council. In a sense, the transformation of local government hardly kept pace with the changes occurring within the local community thereby exposing its weaknesses and limitations. Gone are the days when organizations which serve society in a lackadaisical manner, escape with minor criticisms and scrutiny. The present day community especially those in the urban setting is less tolerant of such incompetence arising from any organization that is unable to cope with the challenges of the public's changing norms and perceptions.

In this country, the existence of local government is still relevant and it has contributed to the growth and development of the nation. Malaysians identify local government as the "grass root" government or the "government closest to the people". By virtue of this importance as the third level of government, it reinforces the necessity to transform and strengthen it into an institution worthy of such a position, thus enabling it to counteract the impact of globalization, public misperceptions and political maneuverings within a centralized system. Therefore, the question arises as to how local government will proceed with change; does it require unconventional methods to deal with new policies and regulations that are continuously authorized for implementation; or succumb to conventional ways, thereby exposing itself to predictability and mounting criticisms? There is a case for local government to change and transform into an institution that can deliver and operate in an environment where it has the capacity to weave itself out of any intricate web of controversies and challenges.

For this change and transformation to occur, it is acknowledged that much also depends upon inter-governmental relationships, i.e. local government ties with the upper-tier governments of both the federal and state which can significantly influence any outcome. In so far as Malaysia's practice has been observed, local government has performed its functions within a system that follows the traditional "top-down" approach which is the norm of administration. However, given present conditions, it is critical for local government to be able to respond to the challenges that come with a changing urban environment and community. If it is to continue to be relevant and to maintain its position within the dynamics of federal-state-local relations, local government will need to pursue aggressive restructuring of its organization as well as re-examine its relationships with the federal and state governments. Local government not only has to encounter the challenge of traditional practice, but is also beset with problems associated with its position as the local level authority.

### **Challenge from Population Growth and Rapid Urbanization**

Cities in Malaysia and throughout the world are undergoing various transformations. For instance, by 2010 it is projected that 4.1 billion of the world's population of 6.84 billion will be residing in Asia (United Nations-Habitat 2007). The level of urbanization in Malaysia is estimated to be 78.1 per cent in 2020, with the Philippines at 72.3 per cent while 62.6 per cent of Indonesia's population will live in urban centres and the corresponding figure for Thailand is 38.9 per cent (United Nations-Habitat 2007). What this means is that the cities and towns need to be adequately governed and managed or the consequences will be urban degradation and damage to the environment. The local government will be the expected level of government to deal with this situation.

### **Challenge from Rigid Administrative Structures**

The practice by most governments in the developing countries in managing their cities, Malaysia included, is to exercise central control in administration in the traditional "top-down" approach. This means that the delivery system of local government is hierarchical, monopolistic, budget control retained at the centre of authority, stability of expectations from staff and public, public funding and provision with peripheral charging element (Fenwick 1995). Yet, it is common knowledge that the urban environment and local community never remain static and

a rigid local government structure that cannot conform to changing times will persistently be a problem to local governance.

### **Challenge from a Continuously Changing Environment**

The fabric of urban governance is besieged with problems associated with a haphazard growth and inadequate town planning. The environment is also very fragile and constantly bombarded with rapid physical development and increasing pollution as a result of existing practices of urban management which are neither adequate nor sufficiently effective. For instance, once an area is built up, it is difficult to revert back to its old form and structure and uncontrolled built-up of land without due consideration of the natural surroundings leads to development that is unsustainable. The onus is upon local government to properly manage and plan for the urban environment to sustain growth and development.

### **Challenge from Lack of Financial Autonomy**

With increasing responsibilities and functions that are linked to a growing population, local government needs adequate financial resources to provide and maintain these services and more. However, given the structure of government in Malaysia and hence local government's position, vis-à-vis federal and state governments, its budgetary and financial practices are strictly governed according to the laws and regulations enacted in the Local Government Act, 1976. Constraints are faced by those local authorities that may want to increase their revenues through local taxes, service charges, tax sharing and business ventures (Phang 1997). Difficulties in raising sufficient funds often impede the efficacy of local government.

These challenges to local government should be adequately addressed as it plays a pivotal role in any national government's efforts in pursuing the goals of economic growth and increasing productivity. There has to be recognition of the concept of local democracy and that meaningful power sharing can only contribute to stable governance. A balanced partnership has to be established between central and local governments for as the nation progresses, its development and growth is contingent upon local government's ability to govern at the local level. According to McKinnon (2005):

...local democracy can and must be in a balanced partnership with the other spheres of government. There is no balance when local government

is simply the local deliverer of policies and services which are shaped, controlled by and wholly funded from national level. There is balance when there is a sensible division of powers and responsibilities, a fair allocation of resources and a significant degree of local autonomy in the use of those resources.

### **A Brief on Inter-governmental Relationships**

In the area of inter-governmental relationships, the federal structure of government in Malaysia tends to be heavily biased towards the central government, especially in the allocation of powers, with the local government the weakest as it is the third level of government after the state and federal governments.

States and local government operate within a framework where they are politically and economically subordinate to the central or federal government. Given the nature of the states being quasi-sovereign (all states have a Sultan except Penang, Melaka, Sabah and Sarawak), they do possess some semblance of autonomy and independence. Notwithstanding, in terms of laws, federal laws take precedence over those of the states. This is to ensure that the exercise of state executive powers does not cross those of the higher tier, in this case, the central government.

At the local level, although local government is a state matter, through the National Council for Local Government (NCLG) set up under Article 95(A) of the Federal Constitution, central government powers are exercised over local government. The NCLG can formulate policies and advise on matters pertaining to local government, and all states, with the exception of Sabah and Sarawak, need to comply with these directives. In the past, the federal government has seldom resorted to the use of the NCLG to insist upon its authority where local government affairs are concerned. The NCLG's position at the central level is to ensure uniformity of policies and rules for local government in the Peninsula and in this respect Sabah and Sarawak may be inclined to follow central policies with regard to their local government. Thus far, the state governments through the office of the Chief Minister (Menteri Besar) are still in a strong position to influence and control their local authorities through matters such as appointment of councilors, finance, licensing, contract and project approvals. In theory, as long as the policies at the state and local governments are in line with the central government, there is no justification for the federal government to intervene in matters which are considered state prerogatives. However, there is a perceived trend of increasing central control due to the role of the NCLG and also the consistent neglect by state governments

that has left many of their local authorities in perpetual financial difficulties. This has ultimately required the intervention of the federal government resulting in further encroachment into the autonomy of local government.

The federal government's role via the NCLG is for the purpose of ensuring uniformity of laws and compliance with policies. With the Deputy Prime Minister as chairman of the NCLG and the Ministry of Housing and Local Government as the Secretariat, this Council is powerful. At the same time, as history has shown, most states are seldom in a position to adequately provide financial support to their local authorities. Inevitably, the central government is compelled to support local government by disbursing annual grants and seconding professional and technical staff to the local authorities. Given the challenges which are faced by local government and limited state support and increasing community demands, local government is weakened and is left with no choice but to accept federal financial assistance. Needless to say, provision of financial aid allows central government to reinforce its powers over local government and indirectly eroding the autonomy of local government. Through this process of providing financial aid, the federal government is implicitly involving itself in local affairs and ensuring local government's compliance. This move only reinforces and reminds everyone that the federal government is in control. It may be asked that within this federal system what actually lies ahead for local government; will it be the furtherance of centralization or perhaps the beginning of local democracy?

### **Whither Local Government Democratization?**

Tracing the history of local government in Malaysia by referring to the *Report of the Royal Commission of Enquiry to Investigate into the Working of Local Authorities in West Malaysia* (Malaysia 1968), also known as the Athi Nahappan Report, provides the basic tenets upon which the country's local government was established. The Report examines the issue of competence and relates it to the ability of local government to deliver the services to which it was set up to do. The Report explains that three channels may be used to carry out the services and they are *devolution*, *deconcentration* and *decentralization*. The process and methodology for each channel has its merits with differing conferment of powers to carry out the functions. While devolution allows powers to be formally constituted to local government units, deconcentration operates by a delegation of authority and decentralization combines the element of both devolution and deconcentration with

discretionary and obligatory powers (Malaysia 1968). With regards to this matter, the government then adopted the policy of promoting decentralized local government (Malaysia 1968). While acknowledging the preference for decentralization, the government did not follow it up by detailing and stating the characteristics and objectives of decentralization. This was further compounded by the lack of a precise definition of local government as what would have been constituted as local self-government in the past would not be identifiable today (Phang 1997).

Local government's relationship with the federal government and the state government is defined by the Federal Constitution in the sense that local government occupies a place in the governmental structure of Malaysia. By virtue of Items 4 and 5 of the Ninth Schedule of the Constitution, local government outside the Federal Territories is subject to the State List. Constitutionally, it is apparent that local government has a role to play in this nation, but it is this inability to be precise about its objectives and to clearly recognize it as a level of decentralized government with certain powers and autonomy that has to a certain extent weakened local government today and influenced its relationship with the state and central governments.

Currently, calls for common global issues to be tackled by involving the local community and for the practice of good governance appear to be linked to the role of local government. For local government to be able to address these problems, it is vital for it to be strengthened politically and structurally. There is a case for the federal government to heed the need to make local government more democratic because local democracy and decentralization go hand in hand (Mkhatshwa and Otekat 2005). In a message to the Commonwealth Local Government Conference in 2005, President Olusegun Obasanjo of Nigeria declared that:

The incentive to participate in government processes is stronger locally than nationally because local governments are closest to citizens. Therefore, a way to deepen democracy nationally is to deepen democracy locally.

(Mkhatshwa and Otekat 2005)

Globally, there is recognition that local government is best placed to help tackle problems of not only the community but also the national problems of poverty, crime, climate change, migration and a host of other issues. Thus there is a case to be made for local government in Malaysia to be recognized not only as the



third tier but as an essential sphere of democratic government with the necessary endowment of powers and autonomy for it to function effectively as the local level of government.

### **Decentralization and Local Government – The Case for Local Democracy**

Giving the community the opportunity to have a say in the policies and decisions that affect their lives in local government means practising democracy at the local level. Local government appears to be the natural platform for national governments to implement local democracy and to encourage the involvement of all groups of people in the affairs of the state. It is recognized that not all central governments can accommodate the demands of the community for participation at the central level and especially if the country is divided into subdivisions and areas where there is a need for some form of governance and leadership. Indeed, this is where local government is ideally placed as a point for local participation and representation. However, for local government to be the voice of the community and effective as a partner in supporting the central government's objective to improve the quality of life of the citizens, it too needs to have some powers and autonomy to shape local policies; to provide services efficiently and recognized as a legitimate tier of government. This means the necessity of empowering local government and involves the issue of decentralization. According to the Commonwealth Secretariat (Mkhatshwa and Otekat 2005) decentralization involves:

Political decentralization - the devolution of political decision-making powers.

Democratic decentralization - locally elected and locally accountable representatives.

A share of the national public purse from the central purse to local areas.

Devolution of tax-raising and spending powers, and

Administrative decentralization - the devolution of governmental functions.

A local government which reflects democratic decentralization provides avenues for local community participation. This is a key aspect of participatory governance. While it may not be practical for every person in the community to participate in council hearings and policy meetings, however, through their

nominees and representatives their voices can be heard. This can be done using the most common method which is via regular elections of their local representatives, councilors, heads of councils and mayors. The idea of participation is important as it is often linked to rights of citizenship and to democratic governance. It has been argued that having more direct or empowered forms of participation in local governance can lead to democracy building and decentralized governance (Gaventa 2004). This involves loosening of centralization and the devolution of power to local government with genuine authority and resources which will allow it to be less controlled by central rules and regulations. However, democratic decentralization does not mean only the transfer of authority from central to local but must be followed too by local government's initiatives to create opportunities for its local community to participate in its activities. In terms of participatory governance at the local level, a key concern is that it should not be mere tokenism or subsumed within informal modes of patronage which in the end nullifies the concept of democratic decentralization and participatory governance (Hickey and Mohan 2004).

### **Global Support for Decentralization**

At the global level, the support for decentralization is gaining momentum. It is agreed and acknowledged that central governments have found it increasingly difficult and unable to deliver services and goods to the people at the local levels without the help of local governments. In most countries, there is evidence that local authorities carry out a variety of functions that are not performed by the central or national governments (Commonwealth Local Government Forum 2007). This is evident in relation to the growth of urbanization whereupon it is the local government that has to manage it in a sustainable manner. Hence decentralization is important as it will help to strengthen local governance and give local government the flexibility in making critical decisions with regards to local issues such as land use, infrastructure and services (United Nations Population Fund 2007). Research has shown that for central government to achieve a certain degree of success in service performance, some responsibilities have to be devolved to local authorities, although it is also agreed that transferring of functions should be dependent upon the carrying capacity of the local authority, i.e. undertaking the function at the local level should be sustainable and also cost effective (Alam 2006).

Increasingly, more national governments in developing countries such as those in Kenya, Tanzania, Cambodia and Honduras are devolving some of their powers to

local governments and creating opportunities for their local councils to be more active in social and economic development (United Nations Population Fund 2007). The process of decentralization is also being encouraged by the European Union and several countries in Latin America where there is a demand for local democratic control and autonomy (Devas 2006). Even the world's two largest countries of China and India have already embraced decentralization and a study shows that strengthening local government is a prerequisite of social progress, political stability and economic development (Alam 2006). This is exemplified in the case of China where despite the country's centralist position, it has a local government system that is decentralized, especially the Chinese fiscal system that has decentralized authority and autonomy to expand revenue generation through offering of new services (Wong and Bird 2006).

In Malaysia, the changes that have taken place in local government to render it more responsive to the community's needs have been more administrative rather than political. The pattern of transforming local government, first initiated when local government elections were suspended in 1964, followed by the Royal Commission of Enquiry to investigate into the workings of local authorities in 1965, the implementation of the Local Government Act, 1976 (Act 171), and subsequently the restructuring of local government in Peninsular Malaysia in the 1980's (Phang 1997) did not transform local government into an autonomous tier of government. Rather, the whole process resulted not in devolution as expected, but essentially a pursuit of deconcentration in administration. Viewing the process today, it can be seen that the whole exercise of reforming local government then had been to depoliticize it and reinforce central control and through the NCLG provide a uniform and viable system of local services. There has been evidence of increasing centralization resulting in subduing local government. At least in some crucial areas, local government prominence has dissipated especially with regards to the privatization of its traditional services; abolition of local election and replacing it with federally appointed councilors, and seconded federal officers as presidents of the local authorities. However, it still remains the third tier of government as it is under the jurisdiction of the various state governments but contingent to the predilections of the federal government and this position has not changed.

### **Reforming Local Government – Some Reservations**

The recent general national elections on March 8, 2008 have once again

highlighted the tenuous position of local government in the country with current sentiments seemingly to favour a re-examination of its role and powers. The issues of local autonomy and concept of decentralization have become the focus of attention as questions are raised pertaining to public participation particularly with reference to accountability, transparency and pertinently to local elections. Thus far, a positive indication that local government has a future in this country pertains to its role as the provider of basic services of which only it can carry out and cannot or should not be provided by the central government. Although the global trend in other developing countries leans toward decentralization and transfer of powers to their local government, Malaysia appears less inclined to follow, and seems to prefer centralization. Given this scenario, it may be apt to state that perhaps local government in Malaysia will retain the *status quo* and that the federal government will not be persuaded to make major changes to local government. In this country, it does seem that administration and politics will remain centralized.

Without some of the major changes that have to be implemented for local government there is little avenue for it to be transformed to become a challenge to centralization. For instance, the notion of elective local government does not seem to appeal to the federal government, yet the basis of political and democratic decentralization hinges upon devolution of decision-making powers to local government as well as allowing for locally elected representatives. The argument for retaining the present system of representation through appointees of central and state governments is the fact that public services are delivered and executed according to uniform policies, although those who manage it are neither popularly elected nor accountable to the public. The underlying philosophy of the federal government is that local government cannot be subjected to the mavericks of party politics and decentralization of political powers is confined to appointment of councilors who are affiliated to the political party in power at the central level. Certainly, this is unfortunate for political and democratic decentralization; but on the other hand, there is a case to state that this has not in any way jeopardized the administration of local government nor its services to the community generally. With the concentration of the federal government upon having an excellent public delivery system, the image that this government can deliver is of prime importance.

Given the forgoing discussion thus far and the relationship between the levels of government, it is obvious that any impetus for local government transformation has to be a central government initiative. Certainly, for any success in local government reforms, it will be contingent upon the imperatives of the central rather than the state governments, indicating the reinforcement of central control and

strengthening a polity that is already highly centralized. Somehow a challenge to centralization is highly difficult as even administrative decentralization which can be considered the bastion of local government decentralization is being weakened by central government's privatization policy. Local government services and functions which have been traditionally carried out by the local authorities such as solid waste management, car parking, water provision and public transportation, have been systematically privatized on the pretext of providing them better and more efficiently (Phang and Beh 2006). Privatization essentially chips away local administrative autonomy as these devolved functions are systematically removed from local government's control and purview. Needless to say, these are the core functions that give local government its identity as the third tier of government and by diminishing local government's role in providing these services amounts to reducing the autonomy of local government. Essentially, it is deemphasizing the special role of local government with the local community since as the provider of municipal services it is linked to the local citizens. A fundamental element of decentralization is devolution of governmental functions and hindering it challenges the process of local democracy, community accessibility and good governance.

### **Conclusion**

Thus far the prospect for a transformed local government based on democratic principles is dependent on the extent of central government's generosity to share powers with the lower tiers. There is skepticism as to whether after more than three decades there will be reforms that can usher in democratic and political decentralization of local government. In many parts of the world, there is a groundswell for more sharing of power and resources between the central and local governments and similarly local communities are demanding for a greater say in the decision-making process of their local authorities. The position of Malaysia is such that any reform of local government according to the principles of decentralization and democratization can hardly be expected to take place in the future. The present system of three tiers of government will be retained and the federal government will remain as the government with overall control and power.

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