



DYNAMICS OF CONTEMPORARY INDIAN AND MALAYSIAN FEDERALISM: AN OVERVIEW

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The conception of federalism developed with the American federal system, which is regarded as the mother of all federal systems. The concept of the federal state took a definite shape with the adoption of the Constitution of the United States of America in 1787. As such in the 20th century, federalism gained significant importance and many countries around the world have adopted a federal system of governance. The study of federalism constitutes the examination of political institutions, comparative politics, and socio-cultural pressure. This is why most federations exhibit these features with some variations due to economic, political, and social exigencies. This article discusses the socio-political developments in the direction of the normative experimental concept of federalism with special reference to India and Malaysia.

Today the study of federalism has in many respects reached a progressive level, yet a troubling absence of agreement regarding the exact meaning of this concept remains. In today's political scenario of several countries, federalism is a prominent and broadly implemented system of governance. Around 70 percent of countries worldwide have at least some element of federalism in their setup, and 40 percent of the world's population lives in these countries.¹

In a federal state, the combination between central rule (i.e., a national government) and province rule is of highest importance. Here the vital issue is how much power the national government and the state, regions, or provinces should exercise. In a wider sense, federalism encompasses the linkage of individuals, groups, and politics in a restricted union (i.e., in a way that it provides for vigorous pursuit for the common end that, at the same time, upholds the reliability of all parties²).

Federalism can be seen as a way of forming a union or making sure that a union stays intact while preserving internal diversities. Democracy is a critical part in the smooth functioning of a federal model. Since a federation not only demands regional self-rule but also representation in the national government, it can ensure democracy and people's individual rights.³

Federalism is not only an institutional arrangement within a nation, but also a political philosophy in which a group of members are

considered bound together, with a governing representative head. The term "federalism" may be understood as a union or alliance in which equal parts decide to create a common union with each part retaining its own identity and integrity. Essentially, in this arrangement, the conflicts are to be solved amicably under judiciary and constitutional provisions.

Constitutional supremacy therefore means that all governmental authority is rooted in and derives from the sovereign written document that is subject to independent and impartial judicial interpretation. There is, then, a powerful role to be played by the law courts and, in particular, supreme courts and constitutional courts in all federations. Consequently, the role of judges as impartial umpires and the significance of judicial review both as process and substance must be included in any assessment of constitutional change and development in comparative federalism and federation.⁴

The notion of federalism has been around for a long time. Difficulties have been faced by various political analysts about defining a federal state, and it is desirable to come to the deduction that most countries today have some kind of federal structure. For example, the United Kingdom has self-directed counties, but is still not considered a federal country. Consequently, defining federalism is very difficult. Nevertheless, there are a number of features that a state needs to acquire in order to call themselves a federal state.⁵

Historical Orientation of Federalism

The term “federal” is from the Latin word *foedus*, which means covenant, treaty, agreement, or league.⁶ It exemplifies the ideas of promise, commitment, and undertaking, which consequently include the ideas of cooperation, reciprocity, and mutuality.⁷

Thanks to new developments in the world and global economy and new thoughts, this classical definition of federalism has experienced some alteration. Today, the political science literature on federalism appears to have reached a mature state of progress. Now a wealth of fruitful insights into the nature and functioning of federal systems of government have yielded sophisticated comparative analyses that are global in scope.⁸

We can trace back the meaning and significance of modern federalism to the late 18th century. The unexpected atmospheres surrounding the shift from coalition to federation in the United States between 1781 and 1789 formed and shaped the nature of the succeeding intellectual debate in a way that had far-reaching significance in understanding one of the most important historical novelties in modern government and politics. Established in 1789, the American federal model was based on a set of core principles that were consciously imitated by others and that helped to spark a lasting analytical discussion about what “federal” means. The American federal precedent corresponded simultaneously to both theory and practice in this sense. Numerous attempts made during the last few decades for establishing a consensus on the exact meaning of the concept have so far proved futile. It has been indicated that scholars of federalism find it impossible to agree on a shared description.⁹

The idea was initially explained for comparative politics and other political science literature by the British constitutional scholar K.C. Wheare in his pivotal 1946 study *Federal Government*. Wheare’s book constitutes the bedrock of the modern literature on the idea and remains the most shared point of departure for scholars working in the field. Wheare based his federal principle explicitly upon the pioneering instance of what he called modern federalism seen in the United States of America: a compound polity in which two coequally supreme levels of government both acted directly on the citizens through their own law and under a written constitution. Wheare tried to give a precise and empirical working definition of federalism that could be used as a guiding framework or principle for comparing different types of federal political schemes. He consequently demarcated federalism as “a system of government in which authority is divided between national and regional governments so that each remained, within a sphere, coordinate and independent.” The stress in his description of the idea was on the division of powers both constitutionally and in practice.¹⁰

Some important federal theorists disagreed and developed alternative approaches to the narrow legal-institutional concept of federalism defined by Wheare. Among these critics was W.S. Livingston, who redefined federalism sociologically as “a device by which the federal qualities of a society are articulated and protected.”¹¹ William Riker defined federalism as a rational choice of political power.¹²

Carl Friedrich regarded federalism as a continuing and evolving political course, and Daniel Elazar initially endorsed a description of federalism as a pleasant-sounding “partnership” between national and regional governments.¹³ The idea referred to as federalism is related to the need of an orderly plan of relationship amid diverse tiers of government in a nation. It is to be observed that federalism refers to the technique of sharing powers so that overall and

provincial governments each, within a specific sphere, synchronize and work self-sufficiently. It is a principle of association and practice whose final test is how the federal system functions. Expounding on this, Friedrich clarifies that federalism appears to be the most appropriate word by which we can label the process of federalizing a political community; that is to say, the procedure by which a number of distinct political administrations enter into contracts for finding solutions, for adopting joint policies, and for making decisions on joint problems.¹⁴

Federalism is a political association in which the actions of government are separated between regional governments and a central government in such a way that each kind of government has some actions on which it styles concluding verdicts.¹⁵

The vital organizations of federalism are of course a government of the federation and a set of governments of the member areas, in which both kinds of governments rule over the identical territory and people. Each kind of government possesses authority for making some decisions independently of the other.¹⁶

When we consider the division of power, we observe that it is also important that there are guarantees that the division is not changed against the will of the states. Most federations have such a guarantee in a written constitution.¹⁷ Many modifications on federalism function in the democratic world, in countries as detached and diverse as Australia, India, Malaysia, and the United States. Federalism is frequently demarcated in contrast to “unitary” arrangements, under which the constitutional system creates a single pole of governmental authority to which all others are subject. An often quoted example of the unitary state is France; others examples are New Zealand, Japan, Sweden, and the Netherlands. Though it may differ from the unitary approach, it is an over-simplification to view federalism simply as a decentralized system, more than it is purely a unified one.¹⁸

In the post-World War II period, federalism appeared as a significant tool of nation-state building after the downfall of European colonial empires. In this connection, many post-colonial multiethnic countries of Asia and Africa accepted federalism. Even if several of these federations were not successful in their beginning, the role of federalism in harmonizing the competing and perhaps contradictory demands for autonomy and unity in such countries as India, Malaysia, and Nigeria could not be distrusted. After the end of the Cold War, federalism once again arose to the spotlight because of two inconsistent developments. First, the breakdown of the socialist federations of the USSR, Yugoslavia, and Czechoslovakia refreshed misgivings about stability and the stability of multiethnic federations. Second, despite these difficulties, politicians reconstituted multiethnic countries through federalism after the collapse of dictatorial regimes and centralist nation-building projects. For instance, international powers imposed federalism to reconstitute Bosnia-Herzegovina after a bitter war and genocide that accompanied the disintegration of Yugoslavia. Federalism was adopted by Russia to maintain what was left of the Soviet Union. Recently, American-led international forces caused the reconstitution of Iraq as an ethnic federation following the U.S. invasion and occupation of the country in 2003.¹⁹

Centralized Federalism and India

The federal character of the Indian Constitution is one of its salient features; however, the term “federation” is not used anywhere in the constitution. The Indian Constitution provides for a structure of gov-

ernance that is essentially federal in nature. It contains all the usual features of a federation (i.e., two governments, division of powers, written constitution, supremacy of constitution, rigidity of constitution, independent judiciary, and bicameralism). However, the Indian Constitution also contains a large number of unitary or nonfederal features (i.e., a strong center, single constitution, single citizenship, flexibility of constitution, integrated judiciary, appointment of state governor by the center, all-India services, emergency provisions, and so on).

However, Article 1 describes India as a “union of states,” which implies two things: (1) Indian federation is not the result of an agreement by the states; and (2) no state has the right to secede from the federation. Hence, the Indian Constitution has been described as “federal in form but unitary in spirit.”

Historically, the origins and formation of India as a federation in 1950 are predicated upon several ambiguities. First, the term “federal” was conspicuous for its studied ambiguity in the constitutional debates of the Constituent Assembly that adopted the new constitution. The division of opinion among political elites about the implications of this word reflected a wide spectrum of ideas that ranged from positive views about unity, domestic stability, decentralized government, and the protection of minorities and British political influence to fears and anxieties about civil war, separatist movements, political disorder, and open rioting, anarchy, and general chaos. Second, the chronology of events that wrought the partition of India in August 1947, establishing the two independent Dominions of India and Pakistan, altered both the perceptions of and the pressures for federation. Third, the overwhelming dominance of the Congress Party representing the Hindu population of India predisposed political elites to emphasize a strong federal center at the expense of the constituent state units. Consequently the Indian Constitution was, in short, a product of the idealism and social content of the independence movement combined with “the assembly members’ experience in government and of the exigencies of the times.”²⁰

Most conventional interpretations of the origins of federation in India take their departure point as either (1) 1858 when the Government of India Act made the governor-general responsible to the secretary of state who now acted on behalf of the British crown or (2) 1861 when the Indian Councils Act granted powers to pass legislation on local subjects to Madras and Bombay and subsequently to new provinces that were created. The underlying point is that “if one word could sum up the post-1858 administration of British India, it was ‘decentralization.’”²¹

The milestones along the road to federation include: the India Councils Act (1892), the Government of India Act (1909), the Government of India Act (1919), the Simon Report (1930), and the Government of India Act (1935). One outstanding similarity between India and the federations of Malaysia, Canada, and Australia is that it, too, was created by a process of what Bidyut Chakrabarty has called the “unpackaging of empires,” or the devolution of imperial power.²²

This process ensured that after the British left, the unitary character of the imperial administrative legacy was simply taken over by the Indian National Congress so that the federal idea began its life in an independent India with the notion of a strong central authority. If we identify the main driving forces that led to the creation of the federation in 1950, the following motives loom large in the mainstream literature²³:

1. The interaction of the British colonial pattern of centraliza-

- tion and the thinking of the Indian political leadership;
2. The British desire to bring together within a single constitutional system the parts of India under indirect rule (the princely states) and those under direct rule (the British provinces with representative institutions);
3. The British concern about communal rights and communal status between Hindus and Muslims meant that issues of states’ rights were generally subordinated to the larger, more dangerous challenge of seeking to accommodate Muslim anxieties within a united India;
4. The experience of partition in 1947 demonstrated the inherent dangers of separatism to those constructing the constitution and predisposed them to favor centralization;
5. The goals of economic development and modernization seemed to require a strong central authority capable of directing the economy; and
6. The existence of a highly centralized, hegemonic mass party and the absence of a strong state and regional parties supported a centralized federal formula.²⁴

The overriding conclusion to these turbulent events is that “although no one seemed to seriously question the notion that India should be a federal republic, a variety of factors combined to ensure that the form of federalism would be highly centralized.”²⁵

Clearly the significance of British imperial influence cannot be underestimated even if all of the elements present in the Government of India Act (1935) were not fully implemented immediately after its introduction because of opposition by the princely states and the leaders of different political parties. But it is also true that the federal constitution that emerged from the Constituent Assembly was not merely a British template. This would ignore the importance of indigenous Indian elites who “produced new modifications of established ideas about the construction of federal governments and their relations with the governments of their constituent units.” Indeed, the assembly “produced a new kind of federalism to meet India’s peculiar needs.”²⁶

The circumstances that surrounded the federal bargain during the period 1946-1949 makes it perfectly possible for Riker to claim, as he did, that his federal prerequisites—the expansion condition and the military condition—were both evident in the creation of the Indian federation. There is no doubt that an internal/external threat existed for both Muslims and Hindus before and after partition, but why this factor should necessarily yield a federal state remains unclear. Moreover, the notion that the incorporation of the princely states fulfills Riker’s expansion condition is also questionable. His claim that they were forced into the new union, which expanded by conquest rather than federalism, sits uneasily with his overall thesis about willing partners making federal bargains.²⁷

Federalism with cultural and ethnic pluralism has given the country’s political system great flexibility and, therefore, the capacity to withstand stress through accommodation. However, continuation of the same requires not simply federalism, but cooperative and constructive federalism.

Within this basic framework of federalism, the Indian Constitution has given overriding powers to the central government. States must exercise their executive power in compliance with the laws made by the central government and must not impede on the executive power of the union. Governors are appointed by the central government to oversee the states. The center can even take over the executive

of the states on the issues of national security or a breakdown of the constitutional machinery of the state. Considering the overriding powers given to the central government, Indian federation has often been described as “quasi-federation,” “semi-federation,” “pragmatic federation,” or a “federation with strong unitary features” that reflect the canon of centralized federalism. A strong center is necessary for strong states and vice versa; this is the essence of centralized federalism.

Indian federation should be seen in the context of its democratic system of governance at the national, state, and local levels and the pluralities of its culture in terms of ethnic, linguistic, religious, and other diversities that cut through the states. India is the largest democratic country in the world, as well as the largest federal and pluralist country.

While democracy provides freedom to everybody, federation ensures that governance is distributed spatially, and a strong central government enables that the “unity amidst diversity” is maintained. It is through federation that the country mobilizes all its resources to maintain its harmony and integrity and marches ahead to progress.

The changing dynamics and the varied experiences that the Indian state has had post-independence—such as one-party rule, the rise of regional parties, the formation of coalition governments, and the active role of the judiciary—have shaped the trajectory of federalism by swinging the pendulum from centralized federalism to cooperative to confrontationist and vice versa.

Centralized Federalism and Malaysia

The modern federation of Malaysia, formerly Malaya, has origins that can be traced back at least to 1895 when the Federated Malay States (FMS)—Selangor, Perak, Pahang, and Negeri Sembilan—was formed by the British colonial administration.²⁸ This was not a federation in the accepted sense of the term, but the real significance of the Treaty of Federation for our purposes “lies in the idea of federation implicit in it: an idea which paved the way for the ultimate establishment of true federal government in Malaya.”²⁹

This left five other Malay states—Johore, Kedah, Perlis, Kelantan, and Terengganu—under British protection outside the FMS as the Unfederated Malay States (UMS) until the Japanese occupation of Malaya during 1942-1945.³⁰

The British imposition of the Malayan Union in 1946 comprised the former FMS, UMS, and Straits Settlements states of Penang and Malacca and was the first time that all 11 Malay states were brought together under one administration. But the union lacked popular legitimacy and was fiercely opposed by the United Malays National Organisation (UMNO). The strength of the opposition eventually led to its abolition in 1948 and replacement with a new federal constitution.³¹

The Federation of Malaya was created with the same states and settlements, but this time it formally recognized the identity of the Malay states; strengthened the special status of the Malays vis-à-vis the Chinese, Indian, and other non-Malays; and introduced a highly restrictive citizenship law. In practical terms, the new federation had strong unitary features with a highly centralized federal government that was designed to foster a sense of national unity.³² The constitution did not guarantee the autonomy of the constituent states nor did it address the issue of state’s rights. Its principal purpose was to accommodate communal pressures that reflected the heterogeneity of the population and centered upon issues of citizenship, language,

religion, Malay privileges, education, and the position of the local Malay rulers.³³ The entrenched position of the sultans, rather like the local princes in India, attracted strong individual allegiance in some states as a result of the long British colonial administration and ruled out a unitary state. Federation allowed the British to maintain and formally recognize the individuality of the constituent states and their rulers who retained traditionally associated powers (i.e., Malay customs, religion, and local land issues) while simultaneously accommodating the socio-political concerns of the Malays for special treatment in respect to ethnic diversity.³⁴

With the creation of the new federation in 1948, one feature characteristic of Malaya is particularly interesting, namely, the notion of non-territorial federation. The chief identifying diversities of Malaya were not territorially grouped, thus the Chinese and Malay elements of the population in particular were present in almost equal proportions in some states with the Indian community standing, in a sense, as a balancing force. None of the three largest communities therefore could make territorial claims for autonomous homelands. According to Ramesh Dutta Dikshit, a federal form of government was adopted “not because of but in spite of ‘racial’ diversity, though the pattern of the real predominance of the two leading communities had created a politico-geographic situation that favored a federal rather than a unitary organization of the state.” The communal distribution of the population meant that a federal rather than a unitary state structure would allow the Malay population in eastern Malay states to resist the economic threat of Chinese competition that had come to dominate the western states. In a nutshell, the interaction of communal, territorial, and economic diversities produced a unique set of circumstances that allowed federation to rescue the Malays from the threat of Chinese economic dominance.³⁵

Watts described the Federation of Malaya as “a hybrid somewhere between unitary and federal government” and he noted three key factors that served to reinforce the progressive increase of central authority during its nine-year existence: (1) the communist threat promoted centralized administration, (2) the experience of elected representation and self-government converted the central institutions into an instrument of Malay nationalism, and (3) the political and governmental hegemony of UMNO under the leadership of Tunku Abdul Rahman ensured central influence in state politics. When independence for Malaya arrived in 1957, the opportunity had also arrived to overhaul the federal system. This overhaul was carried out in a way that effectively increased the legislative authority of the constituent states while simultaneously reducing substantially their executive responsibilities. The Independent Constitutional Commission (known as the Reid Commission after its chairman, Lord William Reid), on which no Malays were represented, was charged to establish a strong central government giving the constituent units a measure of autonomy, to safeguard the position of the Malay rulers, to create a constitutional head of state chosen from among the Malay rulers, to confirm a common nationality for the whole of the federation, and to safeguard the special position of the Malays and the legitimate interests of other communities. The Reid Commission Report that contained the draft federal constitution for an independent Malaya built upon the Federation of Malaya Agreement of 1948 and was clearly influenced by a combination of the Indian, British, and American constitutions.³⁶

In the post-war march toward federation, Singapore had been deliberately omitted from successive schemes of an all-Malayan

union largely because the inclusion of its predominantly Chinese population would have relegated the Malays to a minority and both its economic interests and political leadership were sources of concern to the Malays. However, the intensified threat of a communist takeover there convinced the Malayan leadership to respond to the overtures of the Singapore premier, Lee Kuan Yew, to join the federation. At the same time negotiations began for the inclusion of the British Borneo territories in a new federal Malaysia in order principally to provide a counterweight against the increased Chinese strength consequent upon the inclusion of Singapore. When the negotiations came to fruition, after elections in the two larger Borneo territories of Sarawak and Sabah (North Borneo), Singapore, Sabah, and Sarawak (the Sultan of Brunei decided against accession) joined with the states of Malaya to form the wider Federation of Malaysia in September 1963. Watts claimed that although the 1957 federal constitution was retained in form, the changes made to it by the Malaysia Act (1963) were in practice “so substantial as to create a new federal structure,” but the integrity of the new federation did not survive more than two years as the Singapore Chinese and the mainland Malays quickly became embroiled in a power struggle that led ultimately to the expulsion of Singapore from the federation in 1965.³⁷

In summary, the origins and significance of the federal idea for, first, Malaya and, second, Malaysia stretch back at least to 1895, while the vision of a federal union that would include Singapore and the three Borneo territories had also been foreshadowed by early post-war events and circumstances both in British colonial relations and locally in Southeast Asia. Riker claimed that his military condition had been present “owing to the existence of communist guerrillas, supported from China,” whereas the expansion condition was present “owing to the necessity of reconciling the previously federated states.” Moreover, the existence of Indonesian hostility and reluctance on the part of Singapore and the Borneo states to accept Malayan domination was tantamount to a set of circumstances that fulfilled both conditions of the hypotheses. Indeed, apart from habit and provincial loyalties, Riker argued that it was “fear of Chinese domination” and the “even greater fear of Indonesia” that demonstrated the applicability of his bargaining conditions.³⁸

In hindsight there is no doubt that both the perception and the reality of an internal and an external threat characterized the formation of the federations in 1948, 1957, and 1963. This is not in dispute. What remains contestable, however, is the sort of reductionism that led Riker to oversimplify what was a much more complex set of circumstances than his hypothesis would admit. For example, his trite observations overlooked the crucial context of Singapore’s underlying motive for federation. Singapore Prime Minister Lee Kuan Yew’s reasons for entering the new Federation of Malaysia in 1963 were strategic. With a population that was 80 percent Chinese, Singapore’s membership in the federation could certainly not harm its singular interests while it ultimately served as a stepping-stone to complete independence in 1965—an independence, it should be noted, that occurred from Malaysia rather than the much more hazardous route from former British colonial status. Lee had good strategic reasons for both of these constitutional decisions in 1963 and 1965. Furthermore, Riker’s suggestion that the expulsion of Singapore in 1965 can be explained by recognizing that Indonesia was “not as dangerous as it seemed” is entirely unconvincing.³⁹

Dikshit confirmed that “any military threats” to Singapore’s

existence were “secondary to the economic considerations which reigned supreme in the minds of its leaders.”⁴⁰ Dikshit claimed that while security concerns were the main motive in the Malayan move toward forming the Federation of Malaysia, “in the case of the Borneo territories economic motives were equally, if not more, significant.” Indeed, “the economic considerations were the primary factor behind the overwhelming support for the federation proposal in the September 1961 referendum in Sabah and Sarawak.”⁴¹

In conclusion, in the case of Malaysian “diplomatic and strategic considerations were openly paramount in the motives for enlarging and adapting a federal union that already existed.”⁴² However, the Federation of Malaysia is also worth more than a moment’s reflection because it, too, falls into the category of parliamentary government along the lines of the Westminster model. Although Malaysia is a federal state, political scientists have suggested that its “federalism is highly centralized.” As of 2008, although Malaysia is a *de jure* federation, many perceive it as a *de facto* unitary state. The federalism gives the federal government not only the most legislative and executive powers but also the most important sources of revenue. State governments are excluded from the revenues of income tax and import, export, and excise duties, and they are also largely restricted from borrowing internationally. They have to depend on revenue from forests, lands, mines, petroleum, the entertainment industry, and transfer payments from the central government.

Political Parties’ Role and Federalism

The significance of political parties and party systems for the comparative study of federalism and federation is well established. Indeed, Riker said it was the structure of the party system that was “the main variable intervening between the background social conditions and the specific nature of the federal bargain.”⁴³ The main focus of the intellectual debate about the role of political parties in federations has been how far their internal organization and the structure of party systems have impinged upon the operation and maintenance of federal systems. This is an intricate relationship that requires close and careful examination since it involves a whole host of factors that are interrelated in complex fashion. Political parties are vehicles and instruments of organized, vested interests that express particular values, beliefs, and aspirations, and these interests and values change over time so that parties are able to channel and canalize them through the various structures and institutions of the state. In federations, this means that parties and party systems can function as a kind of prism through which the social scientist can effectively track the parties’ impact upon different parts of the political system. It is in this sense that we can understand why Riker chose parties and party systems as a route into “the measurement of federalism” first in 1964 and then again later in 1975.⁴⁴

In recent decades, many countries have implemented decentralization drives to increase efficiency and responsiveness. Malaysia was an exception. Its federal system pursued a sustained centralization drive for more than 60 years under the rule of Barisan Nasional (BN). However, on May 10, 2018, Pakatan Harapan (PH), the government-led opposition, ousted BN and may bring some decentralization, as was indicated in the first press conference by Prime Minister Mahathir Mohamad.⁴⁵

The decentralization cause dates back to the pre-independence period, when the nationalist elite, the British, and the traditional rulers negotiated the structure of the future government. The first

two parties wanted a strong central government, but had to factor in pre-existing political structures centered on the rulers. The result was a federal system with a powerful central government and state governments with diminished responsibilities. Since independence, BN, the ruling coalition founded by the nationalist elite, remained in power at the federal level until the May 2018 election.

However, the Malaysian federal system has many unique features that make it unusually interesting for comparative purposes. The system was dominated by a powerful centralized federal government controlled by BN, a national coalition of three major partners: the United Malays National Organisation (UMNO), the Malayan Chinese Association, and the Malayan Indian Congress. These three political parties reflect the dominant communal cleavages having political salience in Malaysia, but the largest partisan component of the national coalition and the most influential in the federal government is UMNO. Put simply, then, the Malaysian federal system is characterized by three leading features, namely: communal cleavages, regionally based parties, and the inter-communal executive hegemony of a single national coalition.⁴⁶

A measure of the dominance of BN in Malaysia can be appreciated when we consider that it managed to maintain a parliamentary majority ever since independence in 1957. This hegemony, reflected in party congruence at federal and state levels for long periods, was largely responsible for the relatively cordial and stable federal-state relations that came to characterize Malaysian politics. Recently, however, the challenges to the centralization of executive power in Malaysia, which have always been present, have grown and intensified in the form of regional party representation in several of the 13 constituent states of the federation. In the 1990s the electoral success of opposition parties in the peninsular states of Kelantan and Terengganu and in Sabah in North Borneo introduced new strains and tensions in federal-state relations while conflicts also emerged within UMNO itself as the interests of the federal government (dominated by UMNO) clashed with those of the state government of Pahang (also controlled by the UMNO).⁴⁷

In recent times the Malaysian federal system has oscillated between party symmetry and asymmetry in some parts of the federation, therefore leading to federal government intervention in the affairs of the constituent states.⁴⁸

The constitutional primacy given to the federal government has afforded it sufficient powers effectively to control the constituent states and steer them toward federal goals, while the instruments at its disposal include both the co-opting and disciplining of state political leaders, administrative pressures, financial incentives, the use of police powers, media control, and, ultimately, direct intervention by the declaration of a state of emergency that cannot be challenged in court.⁴⁹

Indeed, the whole structure and apparatus of federal government bureaucracy in Malaysia is oriented toward a strong central government. With regard to Riker's party-symmetry hypothesis, it is clear that "national leaders were basically unwilling to accept the fact that a state was under the control of a party which was not an integral part of the ruling Barisan Nasional coalition." Consequently, the federal government "sometimes behaved in a manner going beyond the bounds of federal principles by using whatever powers they had at their disposal to undermine a state government."⁵⁰

The centralization of the federal party system is further enhanced by the peculiar role of UMNO, whose leader was traditionally chosen as both the president of BN and the prime minister of Malaysia. It

was the prime minister who approved the appointment of the chief minister of each BN-controlled state:

The prime minister from the UMNO has considerable powers within the Barisan Nasional, that is, he may veto the candidate for election proposed by any constituent party, is empowered to allocate seats between the various parties, and retains the right to nominate the chief minister or menteri besar in any state controlled by a component party.⁵¹

Moreover, the role of BN's Central Executive Committee was pivotal in the selection of candidates deemed suitable to contest elections for both the national legislature and the state legislative assemblies. This power extended to the removal of a chief minister deemed unsuitable in any state led by a component party of the national coalition. Clearly the dominant characteristic of the Malaysian party system under BN was that it is highly centralized: party discipline is very strong, the selection of candidates is subject to central control, communal allegiance is paramount, patronage is endemic, and there is a huge concentration of financial resources in the hands of BN.⁵²

This brief outline of the circumstances that typify party politics and the party system in Malaysia brings into sharp focus the conflicting priorities of federal democracy and national integration. For all of its unseemly features, the overwhelming centralization of power in the hands of Barisan Nasional, and UMNO in particular, must be set against the backdrop of Malaysia's turbulent history and its overriding concern for internal and external security that places a premium on the priorities of public law and order and development planning in a federation commonly referred to as multiracial, multilingual, multi-ethnic, and multinational. UMNO's underlying priority is the national project, a quiet determination to integrate multinational Malaysia around the central core of Malay culture.⁵³

After the general election in 1999, the state of Terengganu asked the federal government to review the oil royalty, but the government firmly said that no state would be given more autonomy than the other states under the federation. The proposal to set up an Islamic state was also rejected by the federal government. And to overcome anti-federal feelings, Jabatan Perpaduan Negara was set up to enhance the integration among Malaysians.

Thus, it can be said that federalism under past federal governments was very centralized. The financial power of the federal government was used to get support from the state governments since the federal fund became the main source of revenue for the state.⁵⁴

The specific issue that Riker raised concerning the relationship between the party structure and organization and differing degrees of political centralization and/or decentralization in federations remains a tantalizing question.

Comparative Study of Federalism

Most studies of federations recognize three broad types: the Westminster model, the republican-presidential model, and a hybrid mixture of both types. The Westminster model, based on representative and responsible parliamentary government, applies in particular to Canada, Australia, and India—as former parts of the British Empire—while the republican-presidential model is most closely associated with the United States. Hybrid examples that combine various elements of these two models include Germany, Austria, and Switzerland, while Belgium with its constitutional monarchy and

cabinet government responsible to a lower house—the Chamber of Deputies—might be considered closer to the Westminster model than the republican-presidential type. These groups of comparisons work well from the standpoint of internal structures, but we also have to consider how they would change if we adopted another perspective, namely, the question of the distribution of powers in federations. This viewpoint, as Ronald Watts recently demonstrated, alters the kaleidoscope of comparison in significant ways.⁵⁵

As Watts pointed out, the basic design of all federations is to express what Daniel Elazar called “self-rule plus shared rule” via the constitutional distribution of powers between those assigned to the federal government for common purposes and those assigned to the constituent units for purposes of local autonomy and the preservation of specific identities and interests.⁵⁶

It should be noted that the division of powers and competences can be organized on a territorial and a non-territorial basis. In federal systems there are always at least two orders of government, whose existence is firmly entrenched in a written constitution that is subject to specific amendment procedures and judicial review. And the specific form and allocation of the distribution of powers have always varied according to the specific circumstances of each federation.⁵⁷

Watts has claimed that, for example, “the more the degree of homogeneity in a society the greater the powers that have been allocated to the federal government, and the more the degree of diversity the greater the powers that have been assigned to the constituent units of government.”⁵⁸

The existence of the Emergency Provisions that comprise Articles 352-360 of Part XVIII of the Indian Constitution and the 18-month period of emergency rule during 1975-1977 testify to the potential power resources available to the federal government. Indeed, where the president considers that a state of emergency exists either because of external aggression or internal disturbance, “the distribution of powers can be so drastically altered that the constitution becomes unitary rather than federal.”⁵⁹

Moreover, while it is true that India approximates to the Westminster parliamentary federal model it is not an exact replica of either Canada or Australia. The Constituent Assembly that produced the draft constitution was able to draw upon the experience of a wide variety of federations so that what ultimately emerged and has since been much modified and amended was a new federal model tailored to the peculiar needs of India and “the exigencies of the times.”⁶⁰

In Malaysia, too, there is clear evidence of a distribution of powers that can be and has been altered to suit the tastes of the federal government in Kuala Lumpur. Article 75 of the Federal Constitution of Malaysia clearly establishes federal supremacy in the event of state law being inconsistent with federal law. This article is of paramount importance in the event of conflict between state and federal governments because it effectively allows the federal government to interfere in state legislation on virtually any matter. Article 76 also allows the federal government to encroach upon state competences (as enumerated in the State List) in pursuit of the uniformity of law with the exception of Sabah and Sarawak. Powers to cope with emergencies are embodied in Article 150 of the constitution. These powers have been invoked on several occasions to meet various crises that have occurred in the life of the federation, including the confrontation with Indonesia in 1964, the constitutional impasse in Sarawak in 1966, the racial riots of 1969, and the political crisis in Kelantan in 1977.⁶¹

Indeed, one authority on the Federal Constitution claims that Malaysia’s undoubted economic and social prosperity and political stability have been bought at the expense of constitutionalism and the rule of law:

A historical survey of constitutional amendments since 1957 gives credence to the view that the Constitution is treated in a somewhat cavalier fashion.⁶² Often the amendments are effected to achieve short-term political gains or to facilitate long-term expansion of executive powers. There appears to be an obsession with the need to control at least two-thirds of the seats of the Federal Parliament.... The fine line between constitutional government and outright authoritarian rule has become even finer.⁶³

The top leadership of UMNO, which “dominates the BN coalition, would dictate the chief ministers to head the state governments,”⁶⁴ similar to how India’s Congress Party operated the Bhartiya Janta Party (BJP). Meanwhile, it is seen as an anomaly that “state governments controlled by federal opposition parties are often discriminated [against], penalized, or ignored.... One important dimension in Malaysia’s centralized federalism is the palace-party relation as the federation and nine of her 13 constituent states are constitutional monarchies. Revered as the guardian of Malay political supremacy and Islam, the palaces still command deference amongst”⁶⁵ a large population of the country.

The pattern of relations between the federal center and the constituent units in Malaysia is clearly a historical relic, a legacy of British rule. We can easily trace this legacy from the Malayan Union (1946), the Federation of Malaya (1948), the Federation of Malaya (1957), and the Federation of Malaysia (1963) to see that strong federal governments have resulted in the highly centralized federation that exists today. In both India and Malaysia, then, the priority of state security—of internal order and external threat—has shaped the structure of the federation. And it has been the overriding objective that has served in practice to enhance the growth of executive power over and above increasing concerns for liberal democratic constitutionalism. But if we shift our attention away from the formal distribution of powers and look instead at a different perspective, namely, “administrative-executive” procedures in federations, we alter the kaleidoscope of comparison still further.⁶⁶

Similar to the Indian system, especially before 1989 and after 2014, Malaysia too has a centralized parliamentary federalism characterized by one-party predominance. However, Malaysia has never experienced party change at the federal level, which India first had in 1977. Because of BN’s dominance at both the federal and state level, the federal-state inter-governmental relation is much characterized by intra- or inter-party relations. Through intra-party control, BN state governments behave more like branches than partners of the federal government.⁶⁷ Though recently, opposition coalition PH won seven out of 13 states and won a simple majority of 113 seats of 222. It is worth remembering that 92-year-old Prime Minister Mahathir “is himself no progressive reformer by his previous records.”⁶⁸ If Mahathir keeps to his words, Malaysia could break the unsettling pattern of rising authoritarianism and centralized federalism in Southeast Asia. It is very early to predict anything, but let us hope⁶⁹ the country has entered a new uncharted phase after the 2018 election.

The strong control of BN started diminishing after the 2008

election in which an unprecedented swing of votes went against the ruling BN government, resulting in the loss of five state governments to an opposition coalition.⁷⁰ In the next election, held in 2013, BN further lost seats while still maintaining a simple majority in the national parliament. While facing unpopularity, BN managed to maintain its power by furthering centralized federalism through authoritarian measures, such as incumbent-favored gerrymandering constituencies and media controls.⁷¹ According to a 2012 report by *Business Standard*, more than a half of news channels in India are owned by politicians or political affiliates who use their channels as “political vehicles” to influence the course of local elections.⁷² “Owning a news entity has become a practical necessity for political parties in India,” Suhrith Parthasarathy is quoted as saying.⁷³ Looking to the history of the federalism in Malaysia, a federal system is centralized federalism.⁷⁴

Conclusion

Indian federation should be seen in the context of its democratic system of governance at the national, state, and local levels and the pluralities of its culture in terms of ethnic, linguistic, religious, and other diversities that cut through the states. While democracy provides freedom to everybody, federation ensures that governance is distributed spatially, and a strong central government enables that the “unity amidst diversity” is maintained. It is through federation that the country mobilizes all its resources to maintain its harmony and integrity and marches ahead to progress.

The changing dynamics and the varied experiences that the Indian state has had—like one-party rule, the rise of regional parties, the formation of coalition governments, and the active role of the judiciary—have shaped the trajectory of federalism by swinging the pendulum from centralized federalism to cooperative federalism to confrontationist and vice versa.

For working India’s federal system, one has to go beyond brute parliamentary majorities and grapple with the multilevel government-opposition matrix, which constitutes the architecture of federal power-sharing. It is far from clear whether [the BJP-led government] has either the will or the inclination to make any decisive moves in this direction. There is in the authoritarian personality an inbuilt penchant for majoritarianism.⁷⁵

So India is increasingly moving toward centralized federalism. The coming to power of opposition coalition PH at the federal level and in seven states following the 2018 election interrupted the one dominant party political process that has prevailed for more than 60 years in Malaysia. It is difficult to predict at this level, but the hope is that Malaysia will transit from a centralized federalism to a more cooperative one.

The concluding goal of federalism is to comfort diversity and differing identities while also demanding the compatibility of political regimes and the same basic standards. Fundamental human rights and democratic principles are part of this common foundation.⁷⁶ ☉



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