In the keenly contested thirteenth general election (GE13) held on 5 May 2013, the Barisan Nasional (BN) coalition emerged victorious, for the thirteenth time. Thanks to the first-past-the-post electoral system used in Malaysia, it won 133 of 222 parliamentary seats at stake, although it garnered only 47.5 percent of the popular vote (down from 51.4 percent in the previous polls in 2008). The opposition coalition Pakatan Rakyat (PR), which polled 50.9 percent of the popular vote (up from 47.5 percent in 2008), won only 89 of the 222 parliamentary seats. However, the PR’s performance was enough to deny the BN a two-thirds majority in parliament, for the second successive general election. As well, the PR defeated the BN again in the states of Kelantan, Penang and Selangor. It also came close to winning two other state legislative assemblies. To a large extent, the electoral results are a reflection of the outcome of the previous (twelfth) general election (GE12) held on 8 March 2008.

Then, the BN lost not only its two-thirds majority in parliament; it also lost an unprecedented five of the thirteen states to the PR. There occurred various dramatic developments thereafter. Former prime minister Dr Mahathir Mohamad, who had handed power to Abdullah Badawi, soon launched an assault on his former deputy which resulted in Abdullah’s retirement. There were also soul-searching reviews by the United Malays National Organisation (UMNO), and the other BN component parties on why they had fared so poorly. There were even reformist initiatives by the new prime minister, Najib Tun Razak.

Less anticipated were the tensions that arose between the BN federal government and the PR-led states. Whereas the academic and public discourses on BN’s political dominance since independence in 1957 had previously focused on how the executive had accumulated power at the expense of the legislature and the judiciary, and how the BN state had penetrated deep into the sinews of the everyday lives of ordinary citizens in Malaysia’s multi-ethnic society, post-GE12 discourse on centralisation also focused on the central government’s domination over the state and local governments.

This chapter focuses on the structure and design of Malaysia’s federalism, which has been described as ‘highly centralized’ (Anderson 2008: 69). Another analyst has stated that ‘the concentration of functions within the Federal Government has been carried so far that, in respect of the states of Malaya, one could almost question whether there is any justification to speak of a federation at all’ (Holzhausen 1974: 178). The origins of Malaysia’s federal system
and the factors that have shaped Malaysia’s centralised federalism will be discussed first. The second part of the chapter elaborates on major aspects of federal–state relations during 1957–2007. The final part highlights the controversies and the ferment that have occurred in federal–state relations since 2008; however, a formal restructuring of federal–state ties will probably require a change of government at the centre first.

Origins of the federal system

Malaysia’s federalism is not derived from the demographic distribution of ethnic groups, for the major ethnic groups are distributed unevenly all over the peninsula. If anything, the Chinese and Indians tend to reside more in urban areas while the Malays predominate in rural areas. It is only in Sabah and in Sarawak that there reside large concentrations of regional ‘native’ minorities, namely the Kadazandusun in Sabah and the Dayak in Sarawak.

Nor is the origin of Malaysia’s federalism to be found in the principle of ‘subsidiarity’, since Malaysia is a small country. Rather, the origin lies in the peninsula’s historical legacy. Prior to colonialism, the territory comprised distinct Malay states, each ruled by a Malay sultan. British colonisation reinforced these divisions by recognising these states as separate legal entities in the late nineteenth and early twentieth centuries. Although the British attempted to centralise administration in the 1930s, the attempt proved unsuccessful, due to strong objections by the Malay rulers. In this regard it is significant that early civil society organisations, including those which advocated popular political participation, were state-based entities too.

It was only after World War II that pan-Malaya political organisations and movements emerged. In 1946, the returning British colonialists proposed the establishment of the Malayan Union (MU) which would have done away with the separate Malay states and centralised administration over British Malaya. The MU proposal also offered citizenship rights quite liberally to all then domiciled in British Malaya, an offer that would have benefited the immigrant Chinese and Indians. Significantly, the British succeeded in pressuring the Malay rulers, who had collaborated with the Japanese during the war, to support the MU proposal. However, the Malay aristocrats, as distinct from the rulers, opposed the MU proposal and mobilised ordinary Malays against it, paving the way to the formation of UMNO. Although UMNO comprised numerous state-based organisations initially, it evolved into a pan-Malaya ethno-nationalist party, ultimately transcending state loyalties and appeal. Hence the rejection of the MU proposal and its replacement by the Federation of Malaya Agreement in 1948 emblemised continuity with the past on the one hand, but also reinforced the claim by UMNO ethno-nationalists of Malay pre-eminence on the other.

As for non-Malay immigrants, for whom state loyalty had little meaning in the first instance, the state order was not useful for defending their interests either. The resulting counter-mobilisation, and the political parties that non-Malays formed, were also pan-Malayan in nature. Little priority was given to endowing the states with wide powers, and with commensurate revenue and other resources.

Centralised constitutional design

Hence the 1957 Federal Constitution is decidedly top-heavy. This is evident in Part VI of the Constitution, which discusses federal–state relations. The Ninth Schedule of the Federal Constitution further details the distribution of legislative powers and responsibilities between the federal and state governments. The federal list is a long one and includes the areas of ‘high
Politics’ – internal security, law and order, foreign affairs, defence, administration of justice and citizenship; the macro-economic functions of trade, finance, commerce, industry, communication, energy, transport, surveys and research; and welfare functions and social development like education, health, labour, social security, and fire prevention and extinguishment. By contrast, the state list is short. The only important areas are lands and mines, Muslim affairs and customs, agriculture and forestry, local government, local public services, and state works and water. The concurrent list covers social welfare, scholarships, town and country planning, drainage and irrigation, housing, culture and sports, fire safety measures, animal husbandry and public health.

State powers are qualified by granting legislative powers to the federal parliament for the purpose of ensuring uniformity of laws across states. In cases of conflict or inconsistency, federal legislation enjoys precedence. Federal laws on local government and most important matters related to land do not even require adoption or passage by the state legislatures. In the event of an emergency, the federal government is allowed to legislate on all state matters; however, residual powers remain with the states (Mohd Salleh bin Abbas 1978: 163–91; Watts 2008: 39).

These provisions in the 1957 Constitution defined the scope of federal–state relations for the peninsular states, and after amendment in line with the Federation of Malaya Act 1963, for the Borneo states of Sabah and Sarawak, too. Although the two Borneo states had proposed that a new constitution be drawn up to accommodate their special interests, their proposal was not realised due to the exigencies of the Cold War period, when Malaya was threatened by a ‘Confrontation’ from a then left-leaning Indonesia.

In the event, more rights and grants are accorded to Sabah and Sarawak than to the original eleven peninsular states. Indeed, Sabah and Sarawak political leaders considered the status of their states to be different. For them, Sabah or Sarawak was ‘one of three’ signatories to the London Agreement which paved the way for the formation of Malaysia in 1963. Some fifty years later, most of these rights have been whittled away through a series of constitutional amendments, resulting in Sabah and Sarawak’s looking more like ‘one of the thirteen’ states (Loh 2009b: 144–53). Hence, due to its separate history, a different demographic pattern, plus the special rights and autonomy granted to them in the 1963 Constitutional amendments, a greater sense of regionalism prevails in each of these two states.

The Tenth Schedule of the Federal Constitution elaborates on revenue assignment based on the division of jurisdictions spelt out in the Ninth Schedule. Hence it is heavily skewed in favour of the central government. In the Tenth Schedule, income taxes, property and capital gains taxes, international trade taxes, as well as production and consumption taxes, are all assigned to the federal government. The state government is allowed to collect only natural resource-related taxes, such as revenue from lands and mines, as well as from forests.

Significantly, under the Petroleum Development Act (PDA) 1974, all states give up their rights to petroleum resources found within their states. Ownership and control of petroleum and gas, though natural resources, are transferred to the federal-owned company, Petronas, tasked with exploiting and mining the resource. Petronas pays the state and federal governments 5 percent royalty each (Petronas receives 49 percent while the producer company receives the remaining 41 percent) of the gross value of petroleum production. The federal government taxes the producer company (Sarawak Shell, Sabah Shell or Esso). Consequently, the federal government receives more revenue from petroleum than do the petroleum-producing states. However, should the petroleum resources be located beyond the state’s three-mile territorial waters, the federal government can choose to deny this royalty to the state government (Nambiar 2007: 186).
Centralised federalism in Malaysia

The undemocratic political process

Second, apart from the federal bias in the constitutional design, the political process that has seen a single political party, the BN, controlling the central government and most of the thirteen states for fifty-plus years has furthered centralised federalism.

In fact, centralised federalism is only one part of the semi-authoritarian political system. For although a Westminster parliamentary system was adopted in 1957, the BN has ruled with a wide array of coercive laws passed by parliament which allowed for preventive detention as well as strict control over civil society organisations, publications and printing, trade unions, universities and colleges, peaceful assembly, access to so-called ‘official secrets’, and so on. The roots of this domination of the political process go back to the pre-independence era, when a communist uprising, euphemistically called the Emergency (1948–60), occurred. With the end of the uprising, emergency powers were incorporated into the 1957 Constitution and other laws passed by parliament. Through use of these coercive laws, the BN executive ensured uninterrupted control of Malaysian politics.

A related consequence was a politicised bureaucracy, already very centralised by design. Serving under the same BN government for over fifty years, the federal, state and local government bureaucracies became extensions of the BN. The flip side to this was that they became uncooperative, and sometimes hostile, towards the opposition. This attitude persisted even after the opposition took control of several state governments after GE12. The common complaint was that the state secretaries, state development officers, state legal officers, state financial officers, local authority chiefs, district officers, and even heads of the departments of Lands and Mines and Islamic Affairs, the last two falling under the purview of the state governments, were biased against the elected PR governments.

Moreover, as a result of the politicisation of the bureaucracy, incompetence, if not corruption, also crept into the workings of the entire bureaucracy. Not surprisingly, therefore, the displacement of the BN in Penang and Selangor, for instance, did not evidently result in more ‘competent, accountable and transparent’, or CAT, governments, their common proclaimed goal.

The development process and the NEP

Third, the development process, underscored by the implementation of the New Economic Policy (NEP, 1971–90), also contributed to the expansion and consolidation of the federal government.

The Constitution stipulates that the federal government is obliged to provide two major grants to the state governments, namely, a capitation grant, which is based on population size, and a state road grant, which helps the states to maintain their network of roads, but is in effect a grant that takes into consideration the geographical size of the state. Apart from these two grants, there are about ten other tax-sharing taxes and levies that the state is allowed to collect or for which the federal government has to reimburse the state. The petroleum royalty is one such case. At any rate, the federal government has sole jurisdiction and discretion over the disbursement of development funds to the state and local governments (Wee 2006).

States that have little land and forest, and no petroleum or mineral resources can raise enough revenue for operations, but not enough for development. A study of the Penang state budget shows that the state’s annual budget has been shrinking. A major explanation was that federal grants to the two local authorities in the state were transferred to them directly, bypassing the state government altogether after 2008 (Narayanan et al. 2010: 199).
An economist from the Malaysian Institute of Economic Research has observed that the total consolidated state government revenues (in absolute terms) for all the states has been rising from 1985 to the present. From 1995 to 2000, the average annual rate of growth of state government revenue was about 4.9 percent. However, the average rate of growth of consolidated state government revenue from 2000 to 2005 declined to approximately 2.5 percent, indicating that the state governments’ capacity for revenue collection had diminished. Meanwhile, the average annual growth of federal government revenue rose from about 4.4 percent for 1995–2000 to 14.4 percent for 2000–05. Accordingly, the researcher concluded:

the state and federal governments are not subject to the same kind of circumstances. The trend seems to indicate that those sources of revenue open to the federal government are growing, while those sources of revenue that the state governments can resort to are declining.

(Nambiar 2007: 190)

Following the 1997–98 regional financial crisis, the federal government was further enhanced, for not only fiscal policy, but also budgetary allocations ‘were concentrated in the hands of the centre’ (Nambiar 2007: 187). Consequently, the central government grew stronger and the state governments weaker, further widening the original design of vertical imbalance.

Additionally, in pursuit of the affirmative-action NEP, the federal government established numerous statutory bodies and government-linked companies (GLCs) to promote bumiputera commercial and industrial interests. Implementation and monitoring of the NEP required the expansion of the public sector and tight control by the central authorities, which shifted even more power from the states to the federal authorities. A case in point is the Commercial Vehicles Licensing Board (CVLB), a federal authority charged with promoting bumiputera participation in the transportation industry. The licensing of taxis and buses, and even the routing of buses in the states, came under the purview of the CVLB. Although the CVLB has been replaced by the Land Public Transport Commission (SPAD), such regulatory control by the federal government over transport matters in the states and local areas persists.

**Bullying the states into submission in the 1990s**

BN machinations to bypass the PR-led state governments mirrored how the coalition had dealt with opposition-led states previously. In 1991, the federal government redirected development allocations under the Sixth Malaysia Plan 1991–95 away from opposition-controlled governments under the Parti Bersatu Sabah (PBS) in Sabah and under Parti Islam SeMalaysia (PAS) in Kelantan, towards newly established Federal Development Offices in those states. Only grants duly specified in the Constitution were provided directly to the state governments. Development allocations for the two states were also cut in the Mid-Term Review of the Sixth Malaysia Plan, ostensibly because of ‘constraints in the implementation capacity in these states’ (EPU 1993: 49). Yet BN-controlled states which had lower rates of project implementation had their allocations increased, instead.

During this period, the chief ministers of Sabah and Kelantan were no longer automatically invited to meetings on development matters involving executives of the state governments, either. In Sabah’s case, the federal government also imposed a ban on the export of timber logs, ostensibly to promote the development of local wood-based industries. Sabah, which derived almost 50 percent of state revenue from forestry earnings, was severely affected. In part because of such financial constraints, Sabah’s economic performance turned sluggish.
under the PBS (Loh 1996: 77–81). Finally, during the early 1990s, several PBS leaders calling for greater autonomy for Sabah were detained without trial on grounds of fostering secession.

One would have thought that the BN federal government would not try to bully the five PR-led states in the same manner it had dealt with Sabah and Kelantan in the 1990s. After all, in Kelantan at least, the voters had continued to vote for the opposition. Moreover, Selangor and Penang, unlike Kelantan and Sabah, are not poor states and are much less dependent on federal funds. In fact, Selangor and Penang are part of the nation’s industrial heartland, much incorporated into the global economy, and are capable of sustaining themselves even if there were federal funding cuts. In the event, the PR-led states refused to be bullied by the central government. The immediate result was a stand-off of sorts.

### Controversies over development projects

The discussion below elaborates some of the major federal–state controversies in the states of Penang and Selangor in the realm of development in particular, but also over issues of democratisation.

A major controversy pitted the new Penang chief minister, Lim Guan Eng, against the Penang State Development Officer (SDO), a federal appointee. Lim alleged that the SDO had threatened to withdraw a RM7 million federal allocation for a Penang Botanic Gardens expansion project, which had run into a roadblock when a number of hawkers refused to relocate to a new site and a group of environmentalists complained about destruction of the gardens. Lim highlighted that the project was ‘a federal one involving federal contractors’ and that he was in the dark about the plans. He feared that the ‘hiccup’ in the plans would be used by the federal government to deny the state its share of funds under the Tenth Malaysia Plan (Loh 2010: 137). In response to Lim’s ‘insinuations’, the SDO revealed that RM7.6 billion had been allocated to Penang under the Ninth Malaysia Plan and another RM278 million under the Economic Stimulus Package Phases I and II for 2009 and 2010 (Loh 2010: 137). Inadvertently, he also revealed that these allocations were put under the SDO’s charge; the SDO answered to the Implementation Coordination Unit (ICU) of the Prime Minister’s Department.

Another controversial issue concerned the worsening public transport problem in the island state. As mentioned earlier, the CVLB, now restructured as SPAD, a federal agency, monopolises land public transport licensing and approvals for routing. Consequently, the hands of the Penang state and local governments are tied. One of the Penang state government’s proposals was to expand and construct more roads (which provoked the wrath of Penang environmentalists). But it also launched ‘non-commercial’ bus services (therefore outside the purview of SPAD) across the bridge and in the inner city in order to remove congestion on the streets and bridge. In fact, it offered the federal government-linked Rapid Penang bus company a RM10 million contract to provide free bus services for Penangites during rush hour, a proposal to which Rapid Penang still had not responded after more than a year.

Of course, the issue is a political one. In the run-up to GE13, the Penang BN announced in its electoral manifesto that it would build a monorail system in Penang should it take over the state. Presumably, federal funds would be forthcoming. In the event, the PR was returned to power and the BN has not talked about such a monorail system since.

As well, there were disputes over the control and management of Penang Port, which the federal cabinet, reportedly, has privatised to a tycoon closely associated with the BN federal
government. The Penang state government has called upon the federal cabinet to privatise the port to the state government instead. Indeed, it has argued that its takeover of the port would allow it to synergise regular dredging of the port, which is nowadays plagued with a siltation problem, and more efficient running of the ferry services currently under the control of the Penang Port Commission – yet another federal agency, despite its name’s perhaps suggesting otherwise. Thus far, the state government as well as the public remain in the dark about the future development of the port and related services (Emmanuel and Bahari 2011).

Meanwhile, Selangor Menteri Besar Tan Sri Khalid Ibrahim has repeatedly criticised the federal government for not providing adequate finance to develop his state. In 2009, he declared, ‘Although RM16 billion in taxes are paid to the federal government by Selangor, the state only got RM400 million for development. This amount allocated by the federal government . . . was peanuts’ (Loh 2010: 138).

Controversy over Selangor’s water treatment and supply has hogged the headlines most since GE12. In 2006, the federal government decided to take over the supply and treatment of water throughout the peninsula and to privatise water services. In Selangor’s case, three concessionaires closely related to the BN were offered what the Selangor Menteri Besar has termed overly generous terms. Subsequent to GE12, the Selangor government attempted to take back control over water treatment and supply; however, the concessionaires repeatedly rejected offers the state government considered fair. After GE13, it tried once again to push through a new deal, which two of the concessionaires accepted. However, the major concessionaire did not. In early 2014, the Selangor government pulled out of further negotiations and requested the federal water regulating authority to resolve the matter. Although the public has generally sided with the Selangor government in this controversy, the concessionaires are backed by the federal government, by the banks and by investors in the concessionaire companies. This problem highlights how difficult it is to reverse the centralising (and privatisation) process, even when a popularly elected state government desires to reverse that process (Yeoh 2012: 57–62).

Yet another move by the Selangor government was a call to revamp the operations of the federal Malaysian Anti-Corruption Commission (MACC). This matter had arisen because of the death of a Selangor state official after he was interrogated (Loh 2010: 138).

Another intervention on the part of the Selangor and Penang governments has been to declassify information considered ‘secret’ under the Official Secrets Act (OSA) in order to expose follies by the previous BN state governments. This was followed by the passage of Freedom of Information enactments in both state assemblies (Teh 2011; The Sun 2011).

Meanwhile, in Kelantan, the PAS-led government has written officially to the federal government seeking RM1 billion in oil royalty, backdated to 2004. It argues that this payment is in accordance with the Petroleum Development Act 1974. Sabah, Sarawak and Terengganu have all received 5 percent royalty payments, but Kelantan, also a petroleum-producing state, has been denied its equivalent. The PR pressed on with the issue and set up a parliamentary caucus to pursue the matter. Subsequently, the matter was taken to the Courts (Razak 2012).

These episodes highlighted the BN federal government’s attempt to prevent power and financial resources from being transferred from the centre to the states, despite the outcome of the GE12 and GE13. In effect, the BN federal government refused to acknowledge the necessary distinction in federal systems between (federal) government-to-(state) government ties and party-to-party ties. In federal systems all over the world, the norm is to anticipate and expect a mix of different parties coming to power at the different levels of government, to recognise the rights of both the central and the lower order of governments, and to share power and funds accordingly, regardless of party affiliation.
Emerging controversies

The contradictions of centralised federalism have been pushed centre-stage as a result of the changes in several state governments after GE12 and GE13. However, some of the controversies that have emerged or are emerging are not related whatsoever to the rise of PR-led state governments. For instance, a major controversy is in the offering in the area of primary and secondary school education. Academic standards have been declining, discipline is worsening and the curriculum has been politicised. There have been volte-faces in policies – for example, for the teaching of science and mathematics in Malay, then in English, and recently, back to Malay again. Worse, many of the graduates from local public universities have found it difficult to find employment. 7

It is not an understatement to say that there is widespread distrust of the education system in Malaysia on account of how it has been politicised and centralised (Loh 2014). In federal countries like Canada, Australia, Switzerland and Germany, as well as in developing ones with federal structures, like India, South Africa, Brazil and Ethiopia, primary and secondary schools fall under the ambit of state and even local governments; tertiary education is often the shared responsibility of central, state and sometimes local governments, too (Watts 2008: Appendix A). Not so in Malaysia!

This is the crux of the matter: our bureaucracy, including the ministry of education and individual teachers, has become very politicised and centralised after rule by a single party – the UMNO-dominated BN – for more than fifty-five years. Regardless of whether state and district education offices are located in BN- or PR-led states, these lower-level officers and teachers take orders from the federal ministry of education. An organisation which employs some 420,000 teachers and another 32,000-odd officers at the federal, state and district levels cannot be expected to function efficiently. Worse, it has been used by power-crazed politicians and officials for political ends.

Another area concerns the privatisation of utilities and the regulatory function that the federal government has assumed from the state and sometimes local authorities. The issue of water supply and treatment was earlier discussed. Here the focus is on cleansing and waste-collecting services, which have been privatised to only three contractors in the peninsula: Env Idaman Sdn Bhd in the north, Alam Flora Sdn Bhd in the centre, and Southern Waste Management Sdn Bhd in the south. Except in the states of Selangor, Perak and Penang (which opted out of the arrangement), the three contractors share an oligopoly over the provision of these services throughout the peninsula. Although it should be obvious that a local firm rather than a big-time company based elsewhere would be more familiar with local problems pertaining to cleaning and waste collection (as well as water treatment and supply), federalisation of these services was legislated for and passed in parliament, then the services were subsequently privatised. In tandem with these changes, a federal regulatory body was also set up. Almost immediately after privatisation, complaints over poor delivery of services were voiced. In the run-up to GE13, a local authority in the BN-led state of Perlis terminated the services of Env Idaman, whereupon the authority was informed by the federal regulator that termination of services could only be made by the federal authority, not the local authority Env Idaman served poorly. It further came to light that Env Idaman had been given a ‘22-year contract’!

These two examples illustrate that federal–state controversies do not necessarily arise as a result of the opposition-led state governments. Rather, most of these problems pertain to the centralisation of power and resources that have gone unchecked under more than fifty years of one-party rule, which has furthered the original central bias in Malaysia’s constitutional design.
As these controversies have raged on, BN members of parliament from Sabah and Sarawak have seized the opportunity to flex their electoral muscles, too. In the 2008 polls, the Sarawak BN won thirty of thirty-one parliamentary seats, while the Sabah BN won twenty-four of twenty-five seats. Without these states’ contribution of fifty-four seats, the BN would not have been able to claim victory. The results of GE13 further confirmed the importance of the BN in the two states. The BN won twenty-five of thirty-one seats in Sarawak and twenty-two of twenty-five seats in 2013. Accordingly, the Sabah and Sarawak BN have pressed their own demands. First, they have pressed for and been granted more cabinet representation as well as the positions of speaker and deputy speaker in parliament. The federal government promised and subsequently set up a Royal Commission of Inquiry to look into the question of illegal immigrants in Sabah who, at 610,000, made up one-sixth of the state’s entire population—an issue for which most Sabahans, regardless of ethnic background or party affiliation, have demanded redress for more than two decades.

Second, the Sabah BN also called for the closure of the Federal Development Office in Kota Kinabalu, which was first established when PBS (then in opposition, where it sat from 1985–94) ruled the state. This was acceded to in early 2009. A RM1 billion allocation for rural development to reduce poverty was also approved, as was an East Malaysia Economic Growth corridor to coordinate regional development in the two states.

Finally, the prime minister proclaimed 16 September, the day Malaysia was formed, as a public holiday. This had been a demand by the Sabahans and Sarawakians for a long time. Significantly, the PR had also promised that it would recognise the importance of 16 September upon coming to power. In this regard, the prime minister stole the PR’s thunder (Loh 2010: 139).

A Sabah leader had likened the BN Sabah to the coalition’s ‘fixed deposit’, warning that ‘if the interest rate offered was not good enough, we can put the deposit elsewhere’. A former Sabah chief minister has unequivocally called for ‘greater autonomy’ for Sabah, especially with regard to the selection of its own chief minister, who is now nominated almost unilaterally by UMNO federal leaders (Loh 2010: 139). Hence, it appears that the struggles between the PR-led states and federal governments have also paid dividends for Sabah and Sarawak, although they are currently under BN-led governments.

Conclusion

This survey of federal–state relations in Malaysia shows that there is considerable ferment in the matter. Although the constitutional design as expressed in the Ninth Schedule of the Federal Constitution has not been addressed directly, the ascendancy of the PR in five states (now reduced to four) has interrupted the one-party-dominant political process that has prevailed for more than fifty years, and which has facilitated not just BN domination at the centre, but its penetration and control into the state and local authority levels as well. The discussion above indicates that the PR-led states of Selangor and Penang, in particular, have challenged federal domination as never before. They have rejected the BN’s bullying ways of the past, when it dealt with weaker and poorer opposition-led states. More than that, the new balance of federal–state relations has allowed the BN-led states of Sabah and Sarawak to press for more development funds, for attention to the problems they face, and for decentralisation in decision-making, too.

Similarly, although the Tenth Schedule of the Federal Constitution, which elaborates upon the sharing of financial resources, has not been amended, nonetheless, due to the controversies that have emerged between the BN federal government and the PR-led state
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governments, the federal government has been forced to continue providing development funds to the constituent states, and to take their particular interests into consideration. Hence in spite of the absence of constitutional reforms vis-à-vis federal–state relations, it appears that some restructuring of those relations is underway. However, the continued occurrence of silly spats and controversies over development projects, as well as demands for democratisation, suggest that Malaysia has still not transitioned from a centralised federalism to a more cooperative one yet. The PR government has declared in its electoral manifesto that it intends to conduct those reforms if and when it comes to power. This transfer of power did not occur in GE13. Might it occur in GE14?

Notes

1 The principle of subsidiarity asserts that taxing, spending and regulatory functions should be performed by the lowest level of authority capable of performing the tasks competently, unless a convincing case can be made to assign these to higher orders of government.

2 In federal systems, sectors like primary and secondary school education, public transport (apart from railways), and health are often under the state’s rather than the central government’s purview. See Watts 2008: Appendix A.

3 The capitation grant is calculated on the basis of a state’s population as recorded in the last census. In 2013, the formula used provided for RM72.00 each for the first 100,000 residents; RM10.20 each for the next 500,000 residents; RM10.80 each for the following 500,000 residents; and RM11.40 each for residents beyond that. The latest version of the formula was passed via Act of Parliament 622 in July 2002. The grants are given in January and June for each year. In 2007, Selangor, the state with the largest population, received RM8,389,573. Penang received RM22,417,694 (Dewan Rakyat 2008). See Wee 2006: 76–77 for capitation transfers during the early 1990s.

4 On the other hand, relations between the BN federal government and BN state governments were very cordial, in spite of various administrative irregularities. See Lim 2008: 81–97 on the Berjaya administration in Sabah from 1976 to 1985. However, during the 1970s, two UMNO MBs who questioned or disobeyed their federal leaders were put into political limbo (Loh 2009b: 121–53).

5 For instance, in mid–2009, citing federal government data, the Penang state government announced that 151 foreign investment projects totalling RM10.16 billion had been approved in 2008, and another RM1.1 billion worth of projects were in the process of being approved in early 2009 (Loh 2010: 136). In Selangor, the state owned several Kuala Lumpur Stock Exchange (KLSE) listed companies. At any rate, it would be foolhardy for the federal government to jeopardise Selangor’s economy, which accounts for 17 percent of the national GDP (Shanmugam and Siow 2008).

6 A useful source on these controversies is Yeoh 2012.

7 A recent survey of these problems and the related problem of over-centralisation of the education system can be found in Loh 2014: 2–10.

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