Like most countries, Malaysia has three levels of government, namely the federal government, state governments, and local governments or local authorities. Unlike most democratic countries, only the first two tiers are elected. Local authorities in Malaysia are not elected by the people.

This chapter is an account of the unique system of urban governance in Malaysia. The chapter begins with a brief description of the roles of the federal and state governments in local government, the types and number of local authorities and their diminishing roles. It next describes the appointments of mayors or presidents and councillors and the roles of the local authorities. The chapter then discusses the effectiveness of the local authorities and the areas that need improvement.

Roles of the federal government and state governments

The Local Government Act (LGA) 1976 (Malaysia 1976a), the most important document in the workings of local governments, was passed by the federal government. So were other important laws, including the Town and Country Planning Act 1976 (Malaysia 1976b), the Street, Building and Drainage Act 1974 and the Uniform Building By-laws 1984. The East Malaysian states of Sabah and Sarawak have their own local government legislation. For Sabah, the relevant law is the Local Government Ordinance 1961 (Sabah No. 11 of 1991) and for Sarawak, it is the Law of Sarawak Chapter 20 Local Authority Ordinance 1996.

The highest body involved in local government matters is the National Council for Local Government (NCLG). Its role is to facilitate consultation between the federal government and the state governments and among state governments themselves in matters related to local government. Although the chairman can be any minister in the federal government, in practice the post is traditionally held by the deputy prime minister. Its members are made up of a maximum of ten ministers and the eleven menteri besar, or chief ministers, in Peninsular Malaysia. Although the number of ministers is one less than those representing the state governments, the federal government is still in control of the NCLG. The chairman is in control of the agenda. More importantly, he or she has the right to vote and also casts a vote in case of stalemate. Sarawak and Sabah are not members of NCLG, but they can send
observers to its meetings. The Malaysian Constitution states that if Sabah and Sarawak become full members of the body, the number of federal ministers in the council will also increase by two.

There is a Ministry of Urban Wellbeing, Housing and Local Government (MUHLG) in the federal government and, within it, a Local Government Department. Both the ministry and the department play little direct role in the workings of the local authorities; however, they do provide grants to local authorities for special projects. The ministry also routinely gives annual grants to local authorities equivalent to the amount the federal government would have to pay if federal buildings were to be rated and the owners were required to pay, just as every property owner has to do. Also, the federal government has an important role in the number and grades of local government officers as it pays their pensions.

The federal government has direct control over three federal territories, namely Kuala Lumpur, Putrajaya and Labuan. Kuala Lumpur is the biggest city in the country and the hub of commercial, cultural and social activities. Putrajaya is the administrative centre of the federal government, while Labuan, which is located off the coast of Sabah, is an off-shore financial centre.

Although Malaysia is a federation of states, the state governments have very limited roles. One of the very few matters in which they have significant roles is local government. State governments play the main role in the creation of local authorities and the appointment of mayors or council presidents, councillors and municipal secretaries. The laws also enable state governments to pass policies which must be followed by local authorities. All by-laws passed by the local authorities and their annual budgets have to be approved by the respective state government. The same provision applies to the sale of land and renaming of roads.

Every state government has a state executive councillor in charge of local government. As the LGA and other acts related to local government make no mention of the role of state executive councillors in charge of local government, their role in the workings of the local council largely depends on their ability, knowledge and commitment. Their relationship with fellow members of the state executive council, especially the menteri besar or chief minister, is also crucial.

State governments have wide power over the development policies of the local authorities. For instance, the Town and Country Planning Act, which empowers the local authorities to undertake development control measures, also allows the State Planning Committee (SPC) to pass development policies that must be followed by local authorities. The SPC is chaired by the menteri besar or chief minister, with members of the state executive council and senior state officers as members.

Apart from appointing mayors or presidents and councillors, the menteri besar or chief ministers have a very limited direct role in the workings of local authorities. The only specific instance where they have a direct role is when there is a deadlock between the councillors and the presidents or mayors. In such an instance, the matter can be taken to the menteri besar or chief minister. His or her decision is final.

**Number and types of local authorities**

There are 150 local authorities in Malaysia, made up of nine city councils, three city halls, forty municipal councils and ninety-eight district councils. The numbers do not include the bodies that govern Putrajaya, the administrative centre of Malaysia, and Labuan, an island off Sabah. Malaysian local authorities cover very large areas, with many having jurisdiction over areas of more than 500 square kilometres. For example, Seberang Perai Municipal Council covers about 740 square kilometres.
Local government in urban Malaysia

There are official guidelines for the elevation of district councils to municipal councils and of municipal councils to city councils or city halls. Elevation from municipal council to city council or city hall requires the consent of the king, with the support of the federal government. However, the guidelines have not been strictly followed.

There is a difference between city councils and city halls. The former have mayors and councillors while the latter have only mayors. The city halls are Kuala Lumpur, Kota Kinabalu and Kuching North. They have advisers, but the mayor need not follow their advice.

Roles and responsibilities of local authorities

Generally, local authorities manage public spaces, regulate the preparation and sale of food, operate wet markets, control sanitation, regulate activities that may cause public nuisances and control the pollution level of streams. The law also enables the local authorities to manage cemeteries that do not belong to associations or religious bodies. Local authorities are given the responsibility and power to make local plans and control town planning and land development projects. They also manage free trade zones. In order to carry out their roles, the local authorities have the power to pass by-laws.

Unlike the federal government and state governments, local authorities are not sovereign bodies. They are infra-sovereign entities, meaning that they are created by their respective state governments in consultation with the minister of wellbeing, housing and local government. As such, they can be mutated or even dissolved.

A common misconception of local authorities is that they can do anything they choose. They cannot. They do not have ‘general competence’, meaning that they can only do things that they are legally allowed to do. Doing things that are not specifically provided for by law can render the actions null and void. This restriction is in contrast to the situation in the Scandinavian countries, where local authorities can do everything except those items that are specifically excluded.

It is also wrong for state governments to treat the local authorities as if they were their own departments. Local authorities are not departments of state government. As a result, it is wrong for menteri besar or chief ministers or state executive councillors in charge of local government to direct local authorities to carry out certain activities or to refrain from taking action against illegal activities. Making things worse, municipal presidents or mayors and councillors seem to believe that they must follow the instructions of state government leaders.

The blurring of the line between the power of state governments vis-à-vis that of local authorities is largely the result of the abolition of local government elections. As local councillors and presidents or mayors are appointed by the state governments, there is a tendency to treat state government leaders as their superior officers.

Diminishing roles

The role of local authorities has been diminishing over time. For example, from 1957 to the 1960s, apart from the responsibilities that local authorities have today, George Town City Council was also in charge of fire brigades, public transportation, mother and child clinics, piped water supply and sewage. It also ran public buses and provided electricity for Penang Island. These activities have been taken away from the Penang Island Municipal Council, which covers the territories under the jurisdictions of George Town City Council and the Penang Island District Council.
In fact, the federal government has continued to take over roles that were traditionally carried out by local authorities. In most states, solid waste management has been taken over by Solid Waste Management Corporation, an agency of the federal government. The Penang state government has resisted the federal government’s taking over solid waste management. Its two municipalities continue to manage the disposal of solid wastes. Following the change of the Selangor state government in 2008, local authorities in this state have also terminated the services of the consortium engaged by Solid Waste Management Corporation. Today, solid waste management in Selangor is the responsibility of individual local councils.

The role of the councils in development control has also diminished. From 1976 to the 1980s, local authorities prepared and implemented both local plans and structure plans. Today, the State Town and Country Planning Department, under the supervision of the State Planning Committee (SPC), has taken over the preparation and implementation of structure plans.

The roles of local councillors in development control have also been reduced. Until 2008, the approval of applications to undertake land development was the responsibility of the Town Planning and Development Committee, which was made up of the municipal president and thirteen or fourteen councillors. The power to approve applications to undertake land development has been taken from this committee. It was placed under the One Stop Centre (OSC) in 2008. There are only four councillors in the OSC. Although the chairman is still the president of the council, the committee members are largely made up of technical officers from the council, state departments and federal departments.

In 2010, Pemandu, the organisation created by the federal government to design and implement ‘transformation programmes’, introduced a ‘New Economic Model’. Among other things, it calls for the devolution of roles to the local authorities. But nothing concrete has been done so far.

Mayors and councillors

The heads of city councils or city halls are addressed as ‘mayors’, while those of municipal councils or district councils are termed ‘presidents’. Mayors or presidents of local authorities in each state are appointed by the state government. The laws governing local government do not require any minimum academic qualifications to become mayors or presidents. In practice, they are appointed from among senior government officers. There have been cases in which politicians have been appointed mayors or presidents, but such appointments are rare.

The LGA allows the state government to appoint a maximum of twenty-four councillors. According to Section 10 of the Act,

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

(Malaysia 1976a)

The requirements are so general that almost anyone, unless he or she is a convicted felon or bankrupt, is eligible to be appointed. Most local councillors have a minimum of nine years of schooling. Many have university degrees and professional qualifications.
Most councillors are members of the political parties that form the state government. For instance, in Penang, which is under the control of Pakatan Rakyat (PR), the councillors in the two municipal councils are from its component parties, namely DAP, PKR and PAS. In Perak, which is controlled by Barisan Nasional (BN), the councillors are from UMNO, MCA, MIC, Gerakan and PPP, the BN's component parties.

The tendency to appoint ruling party members was foreseen as early as the 1960s. The Royal Commission of Enquiry to investigate into the Workings of Local Authorities in West Malaysia, better known as the Athi Nahappan Commission of Enquiry, predicted that there would always be a tendency to appoint people who were politically connected. As the Commission warned,

> Even if there were legal provisions governing the principle of nomination, it is common knowledge that the Government of the day usually favours and appoints its own party members or supporters and not always the best persons available. The legal provisions are often conveniently circumvented by the appointing authority. Nomination therefore is a much abused system.  

*(Athi Nahappan 1968: 99)*

Although the law allows the state government to appoint a councillor for a term of three years, in practice the tenure of councillors is one to two years. Many councillors are reappointed. There have been councillors who serve for more than ten years. The Selangor State Government has decided that the maximum length of service of councillors will be two two-year terms.

**Performance of local authorities**

It is very difficult to judge whether a government is very good, good, bad or very bad. It is easier if the performance of the local authorities is compared with those of others in the region or the world. As a general rule, the living conditions in Malaysian cities and towns are better than in most urban areas of developing countries. One only has to visit the towns and cities of the Philippines, Vietnam or Indonesia to realise that things could be much worse. Malaysian urban areas are also more liveable than those in India and China.

According to the ECA International Quality of Living study, which is used to assist multinational corporations to establish expatriate allowances to compensate staff for difficulties in adapting to living in their assigned locations, Asian expatriates have consistently ranked George Town and Kuala Lumpur relatively high among Asian cities in terms of the quality of living. In the 2012 ranking, George Town was ranked eighth while Kuala Lumpur was ranked tenth, with Singapore ranked number one among Asian cities.

However, considering the economic status of the country, the quality of life in Malaysian towns and cities should be better than what it is today. Many towns and cities have traffic jams, flash floods, squatter settlements and poorly maintained apartment complexes. In many instances, pleasant neighbourhoods have been allowed to deteriorate due to incompatible development or illegal changes of land use and building use. Lately, there has been a growing fear that the towns and cities are not safe, with daily reports of snatch thefts, robberies and even murders. The fear of crime has led to the rapid growth of gated communities, especially in the Klang Valley. Making things worse, residents of normal residential areas have installed gates in their housing enclaves, thus causing problems of access to nearby residents and visitors from other towns and cities.
The road to better quality of urban life

For Malaysian towns and cities to be attractive places, they must be safe, efficient and pleasant. They must be clean and have well-maintained parks, squares and marketplaces. The built environment must have human-scale architecture and mixed land use for shops, houses, outdoor cafes and space for community festivals to promote civic engagement. The towns and cities must be equipped with efficient telecommunication services and good public transportation with safe and efficient pedestrian walkways and bicycle paths. The bigger towns and cities must have heritage sites, museums and art galleries, convention halls, iconic built environments, and facilities for sports, fine arts and cultural activities.

Safe cities do not mean more gated communities. Safety comes from proper arrangement of the built environment, augmented by effective urban management. ‘Fixing Broken Windows’ (Kelling and Coles 1995) should be the mantra of urban management in the local authorities.

Managing Malaysian towns and cities is no walk in the park, in view of the diversity of Malaysia’s interest groups, rapid urbanisation and shortage of funds. The situation is made worse because many Malaysians are afflicted with the malaise of a ‘Third World mentality’. Too many cannot be bothered about the consequences of their actions, such as discarding rubbish indiscriminately or parking their cars anywhere they like. No local council, no matter how committed its leaders are, can make their cities pleasant and efficient under such conditions (Goh 2002).

Yet while many urban problems are caused by the people, the local authorities should also share the blame. The general consensus is that the performance of the local authorities can and should be improved.

Good urban governance

Accountability

One of the main weaknesses of Malaysian local authorities is the lack of accountability. The councillors and mayors or presidents are not elected by the people. As appointees, they are not representatives of the people. As pointed out by the Athi Nahappan Commission,

Nominated advisers cannot effectively voice the interests of the ratepayers because they are not answerable to them. Nomination is no real substitute for elective representation. If anything, nomination is an anachronism and a relic of colonialism. It is antithetic to democracy.

(Athi Nahappan 1968: 99)

What the report warned of has come to pass.

In states that are governed by Barisan Nasional (BN), the councillors are appointed from amongst its component parties. As a general rule, UMNO members dominate the councils. In the district councils, government officers are routinely appointed councillors. In Selangor, Penang and Kelantan, where the state governments are under the Pakatan Rakyat (PR), most of the councillors are also members of the component parties ruling those states, with only a small number of representatives from non-governmental organisations.

The lack of accountability is also caused by poor documentation of the workings of local authorities. Minutes of meetings are not kept verbatim. Only decisions or resolutions are recorded, without proper recording of the reasons for the approvals or rejections.
The lack of written records on enforcement work also leads to lack of accountability on the part of those responsible for enforcing the law. It is usually not possible to ascertain the person or persons responsible when an illegal hawker is allowed to continue for years, for instance. The agent responsible could be the area inspector, director of the licensing department, municipal secretary, municipal president, a member of the state executive council or even the chief minister or menteri besar.

All acts of non-compliance with rules and standards must be recorded. Enforcement officers, such as field inspectors, must report all cases of non-compliance. These must be brought to the attention of the officers’ superiors and documented. If follow-up action is not taken, the reasons must also be recorded. All cases of interference in enforcement actions must be recorded, including the names of the persons who interfere. The annual report of each department must contain all cases of non-compliance. The names of those who interfere in the workings of a department must also be stated. The heads of departments should be responsible for explaining why actions have not been taken.

Transparency

The workings of the local councils are too opaque. Part of the blame lies in the LGA. Only full council meetings are open to the public. Most meetings are classified as committee meetings and therefore not accessible to the public. Almost all important issues are discussed and debated in closed meetings and the decisions of the committee meetings are endorsed in the full council meetings. As a result, rate-payers have very little idea of the workings of the local authorities and the justifications for certain policies and actions.

Making things worse, some local authorities have made it difficult for members of the public to attend full council meetings. In some local councils, rate-payers are required to obtain permission from the municipal secretary. The Subang Jaya Municipal Council once adopted this practice, during the days when Selangor was ruled by the BN.

Local government issues involve matters of everyday life, such as cleanliness, parking, wet markets, food handling and development control. There is no need for secrecy in the decision-making process in local councils. However, as there may be occasions when potentially emotional issues, such as the erection of religious buildings, are on the agenda, the council should have the power to pass a resolution to hold certain meetings behind closed doors.

The OSC meetings, which decide on applications by developers to undertake land development, should be open to the public and the mass media. Development projects should not be treated as national secrets that need to be decided in closed-door meetings. As new development projects can change the character of neighbourhoods, the process of approving or rejecting a project should be public knowledge. Both the developers and people whose welfare might be affected by development projects should be allowed to be present when the councillors and officers make decisions.

All procurements of goods and services should be transparent. Justification for tender decisions must be made public by displaying them on notice boards and on websites.

Rule of law

Acts of non-compliance are ubiquitous. These include littering and indiscriminate disposal of waste, illegal change of land or building use, illegal extensions to houses, illegal parking and illegal hawking. A sizeable number of Malaysians see no wrong in parking their cars in
prohibited places or discarding solid waste into the drains. Despite the establishment of the Malaysian Integrity Institute, the ‘Third World mentality’ syndrome is still abundantly evident.

The main reason for numerous acts of non-compliance is the inability or unwillingness of the local councils to enforce the law. A detailed discussion on this topic has been given in Non-compliance – A Neglected Agenda in Urban Governance (Goh 2002). It is sufficient to reiterate that the lack of action against the culprits is due to inadequate enforcement manpower, cumbersome processes in enforcement actions and corruption among officers. The biggest obstacle to enforcement by the local councils is interference by politicians, especially by state assemblymen and members of parliament.

Local councils must enforce all laws and gazetted development plans. Heads of department must be held accountable for non-enforcement. They, in turn, must hold their subordinate officers accountable for their actions or non-action in cases of non-compliance. Interference from the higher-ups must be put on record.

Efforts to enforce compliance with the law must be preceded by an exercise to ensure that all rules and regulations in the book are updated and can be complied with without huge sacrifices. This is especially important when there is great disparity of income within society, since most laws and standards cater to the middle-income earners and the dominant socio-cultural groups. There is legitimacy in the concept of ‘weapons of the weak’ when the poor and the disenfranchised break the law in order to have a stake in the towns and cities.

**Reviewing and restructuring local authorities**

It has been about forty years since the present system of local government was established. The country has undergone tremendous changes, economically and spatially. The population has increased considerably. More significantly, there has been an influx of population to the towns and cities. The demand for factories, shops and houses has increased tremendously. Furthermore, as Malaysians become richer, they generate more waste. As a result, there is a demand for better governance in the local authorities.

A review of local government administration in Malaysia is long overdue. An important area that needs review is the size of the local authorities. There is a need to scale down the geographical size of the councils while ensuring that each will be able to sustain itself. At present, many local authorities are too big to allow good urban governance. As a result, councillors and senior officers are not familiar with their towns and villages. They have to depend on complaints from affected residents. It is useful to note that in the 1950s and 1960s, there were 390 local authorities in Peninsular Malaysia (Athi Nahappan 1968: 21).

The responsibilities of the local authorities should also be reviewed. Compared with the elected state governments, local councils have more responsibilities. This is why state leaders interfere in the workings of the local councils. The presidents or mayors of the local authorities have been made the Commissioners of Building following the enactment of the Building and Common Properties (Maintenance and Management) Act 2007. This was and still is a mistake. The heads of local authorities already have their hands full implementing the Local Government Act and other responsibilities, including development control.

**Local government elections**

There is a serious need to bring back local government elections. Although elected local councils by themselves do not necessarily lead to efficiency and effectiveness, it is a fact that
all reputable liveable cities have elected local governments. Elected councillors and mayors or presidents are more accountable to the rate-payers than are appointed ones.

As a matter of principle, government leaders in democratic societies are elected by the people. The councillors and mayors or presidents should be elected. Besides, since the local councils collect taxes in the form of assessment rates, the people who decide how the money is to be spent must be elected on the principle of ‘no taxation without representation’.

Local government elections will also ensure that the councillors and mayors or presidents are known to the rate-payers. They not only have to tell the voters their positions on issues such as wet markets, hillside development and hawkers, but also advertise themselves during election campaigns. The present system makes it difficult to meet the mayors or presidents of local authorities. Being government servants, they do not have service centres. There is no doubt that if the mayors or presidents were elected, they would be more accessible because they would have service centres, which would be open at convenient hours for the rate-payers.

An elected local council would also give the councillors and mayors or presidents a sense of power in their own right. Accordingly, they would not tolerate interference from members of parliament or state assemblymen, including those who are state executive councillors.

Conclusion

Seen in the context of Asian cities, Malaysian towns and cities are in enviable positions. But it is fair to say that the quality of life in these towns and cities has not been getting better, even though most Malaysians have become financially richer in the last few decades.

Local authorities play very important roles in the quality of life. But their performance has not been successful. There is a serious and urgent need to improve the workings of the local authorities. Bringing back local elections is an important step. But it is also important to improve urban governance.

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