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Future of Malaysian Federation: Could It Be Really Separated?

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1. Introduction

After 61 years of nationhood, Malaysia recently celebrated its national day as a proud, successful and progressive sovereign State. Unlike Hong Kong and Singapore, which were British priceless ports in the East, the British did not invest significantly for the development of infrastructure in either British Malaya or British Borneo. The colonial administrators exploited the natural resources in Malaya and British Borneo extensively, but did not leave much for the benefit of the local population.

Upon independence, Malaysia transformed itself into one of the largest trading countries in the world, developing rapidly at an unprecedented rate following the end of colonisation. The quality of life and the level of education of most Malaysians

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has improved significantly, particularly among the Bumiputras, with more and more from this group, underprivileged during British rule, now working as professionals.\textsuperscript{5} Malaysia is now a leading developing nation. Notwithstanding, there have been irresponsible and unwarranted calls mooting the idea of secession of states from the Malaysian Federation.\textsuperscript{6} Would this be possible under international law?

2. History

Malaysia has its origins from the pre-colonial Malay sultanates. The Malay Peninsula, or Malaya, was once dominated by the kingdoms of Johor, Negeri Sembilan, Kelantan, Pahang, Terengganu, Selangor, Perak, Kedah and Perlis.\textsuperscript{7} The Johor Sultanate was the last to succumb to British intervention in 1914.\textsuperscript{8} It used to possess considerable territories encompassing areas in the present Malaysian state of Johor as well as Riau and the Riau Island provinces in modern-day Indonesia.\textsuperscript{9}

Unfortunately, in 1824, the Johor-Riau Sultanate was divided into two parts, the modern Johor Sultanate and the Riau Sultanate by the British and the Dutch, who took advantage of the unstable political situation at the time involving disputes over the throne.\textsuperscript{10} Earlier in 1819, Johor lost its southernmost island when Singapore was leased in perpetuity to the British, a territory that remains a separate sovereign state until the present day.\textsuperscript{11}

On the other side of the South China Sea, the Malay Sultanate of Brunei dominated Sarawak before ceding it to James Brooke.\textsuperscript{12} Sarawak was then made a private kingdom of the Brooke family until it was ceded to the British at the end of

\textsuperscript{7} V. Hooker, A SHORT HISTORY OF MALAYSIA: LINKING EAST AND WEST 2-8 (2003).
\textsuperscript{10} D. Lewis, East India Company, English, in SOUTHEAST ASIA: A HISTORICAL ENCYCLOPEDIA FROM ANGKOR WAT TO EAST TIMOR 445-6 (O. Gin ed., 2004).
\textsuperscript{12} B. Bala, Thalassocracy: A History of the Medieval Sultanate of Brunei Darussalam 5-25 (2005).
World War II.\textsuperscript{13} Sabah was ruled by both the Brunei and Sulu sultanates before its sovereignty was transferred to the British, administered by the British North Borneo Chartered Company.\textsuperscript{14} Similar to Johor, the Sultanate of Brunei that used to control almost all parts of Borneo shrank to its current size due to the inability of the local rulers to fend off foreign intervention.\textsuperscript{15}

After the end of World War II, the British floated the idea of the Malayan Union in 1946. As the newly-formed Malayan Union had the potential to erode the political dominance and the rights of the Malays, this regime was strongly opposed and ultimately replaced by the Federation of Malaya in 1948.\textsuperscript{16}

Malaya gained independence in 1957 and became a sovereign country ahead of Singapore and British Borneo. The British allowed the attainment of self-government for Sabah and Sarawak in 1963, under the condition that these states merged with the sovereign State of Malaya to form the Federation of Malaysia.\textsuperscript{17} Although Malaysia was formed in 1957, it was admitted to the United Nations in 1963, as a member State when it gained the independence.

Upon the formation of Malaysia, Tengku Abdul Rahman Putra Al Haj, the then Prime Minister of Malaya, was restyled as the Prime Minister of Malaysia. Malaya’s Head of State (the Yang di-Pertuan Agong), the national anthem, the capital city and the Federal Constitution remained unchanged, though with modifications, Malaysia could merger Sabah, Sarawak and Singapore into the Federation as equal partners. Due to unavoidable flare-ups of racial tension, Singapore was expelled from the Federation by the Federal Government of Malaysia in 1965.\textsuperscript{18}

3. Could the Federation Come Apart?

Modern Malaysia is made up of 14 states, symbolised in the number of stripes on Jalur Gemilang. Alternatively, Malaysia is also said to comprise three components-

\textsuperscript{13} N. Barley, \textit{White Rajah 12-28} (2002).


\textsuperscript{15} Bala, \textit{supra} note 13, at 5-25.


\textsuperscript{17} A. Ling, \textit{Twilight of the White Rajahs} xx-xvii (2013).

Malaya, Sabah and Sarawak. However, the former is a better description as it fits the provisions of Article 1(2) of the Federal Constitution.

The Federation of Malaysia has united these states since 1963. Recently, however, controversial statements have been made suggesting the idea of the States of Malaysia having the right to secede from the Federation. For instance, Perlis could secede if it wanted to, and the same would apply to Perak, Selangor, Johor, Sarawak or any of the other states. Would this be possible?

Malaysia has been a sovereign state for half a century. Through the concept of prescription, the international community has acknowledged all the states of Malaysia as part of the Federation. States within Malaysia could not easily choose to leave as this would ultimately violate Article 1(2) of the Federal Constitution. There has been an incorrect view among Malaysians that if Singapore could become an independent country, this option would be made available to them, too. Malaysians should remember that Singapore did not leave, but was expelled from the Federation with the consent of the Federal Government. Singapore has not been one of the states of Malaysia, as described in the Federal Constitution, since 1965.

4. Global Independence Movements: Case Studies

Asia

Calls for independence have been popular in Southeast Asia. The three southernmost provinces of Thailand, namely Pattani, Yala and Narathiwat, have been fighting for independence from Bangkok for a century. The same trend is present in Indonesia at the moment, with South Moluccas (Maluku Selatan) and Papua attempting to secede from the island republic. The Free Papua Movement (“OPM”) is somewhat active in the interior of the Indonesian province of Papua. The government of the unrecognised Republik Maluku Selatan is operating in exile. Bangsamoro, in the

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19 Chan, supra note 14.
20 Id.
21 Id.
24 Id.
southern Philippines, is another example, with separatist movements against the Filipino central government in Manila currently active.²⁵

Examples from around the world illustrate that independence can only be achieved with the consent of the central government of the country. East Timor, the then Indonesian province of Timor Timur, was invaded and annexed by Indonesia against the will of the Timorese in 1975. As a result, violence erupted in East Timor, causing the thousands of human losses. Initially, because Indonesia had no intention of granting independence to East Timor, it administered the province for 25 years. Due to the international pressure and the escalating violence, however, an independence referendum was held in East Timor on August 30, 1999. The referendum was originally requested by the then President of Indonesia, Bacharuddin Jusuf Habibie, to the UN Secretary-General, Kofi Annan on January 27, 1999 for the UN to hold a referendum, whereby the Indonesian province would be given the choice of greater autonomy within Indonesia or independence. More than 70 percent of Timorese chose independence, so that East Timor finally became a sovereign nation under the name of Timor-Leste in 2002.²⁶

Europe

Scotland is a part of the United Kingdom. However, Scotland possesses its own currency (Scottish pound), parliament, supreme court, and even armed forces.²⁷ Although the British central government in London agreed to hold an independence referendum on September 18, 2014, many Scots voted to remain with the UK.²⁸

Greenland is another example of this subject. Also known by the Greenlandic name of Kalaallit Nunaat, it has been a colony of Denmark since 1814 and became a county of Denmark in 1953. Greenland gained self-governance in 2009, where it took control of managing its own law enforcement, coastguard and legal system. The official language of Greenland was transferred from Danish to Greenlandic. However, Denmark is still responsible in handling Greenland’s defence and foreign affairs. Although it is under the Danish rule for about 200 years, Greenland is now

²⁵ Hazmi, supra note 1.
planning to prepare for full independence by 2021. As the mother country, Denmark is not opposing the independence aspirations of the Greenlanders.

**Africa**

The independence of South Sudan in 2011 is a stark example that a province within a state can become independent if such a campaign is supported by the central government of the ruling country. Sudan’s President Omar al-Bashir reportedly said that the southern region had a right to secession under the referendum because unity could not be forced by power. He also said to respect the outcome of the vote and support the south.

**5. Should the Federation Come Apart?**

Unlike Timor-Leste, Scotland, Greenland or South Sudan, there have never been any formal demands to secede from Malaysia on the part of the people and/or government of any states within the Federation. In addition, there are no military conflicts or active militant movements in Malaysia, such as the Pattani United Liberation Organisation in Thailand, the OPM in Indonesia and the Moro Islamic Liberation Front in the Philippines.

The Global Peace Index 2015 acknowledges that Malaysia has a high level of peace. Malaysia is ranked at number 28 of 162 countries in the world in terms of peace and stability, outdoing the United Kingdom, France and Italy. In 2017, Malaysia was listed in 29th place on this index. With such stability, why should the

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Federation come apart? Malaysians in general have no intention to call for secession.

6. Conclusion

A nation built on disunity is a fragile sovereign entity. As such, to promote national unity, Malaysians should stop labelling themselves as ‘Bangsa’ Johor, ‘Bangsa’ Perak, ‘Bangsa’ Kelantan, ‘Bangsa’ Kuala Lumpur or ‘bangsa’ of any state components of Malaysia for that matter. ‘Bangsa’ is the Malay word for ‘nationality.’ Malaysians should look at themselves as ‘Bangsa Malaysia’ and realise that national unity is imperative in nation-building.

The calls for states within Malaysia to secede are unnecessary and should be put to a stop. After 61 years of nationhood, it is now impossible for any Malaysian component state to leave the Federation as dictated under international law practices.

Malaysia is a federation comprising 14 states, having its origins from the various Malay kingdoms that were once part of British Malaya and British Borneo. Although Malaysia was established in 1957, this nation has been recognised as a sovereign state since 1963, when it was admitted as a member the UN. Following a number of secession incidents that occurred around the world, namely Timor-Leste from Indonesia in 2002, South Sudan from Sudan in 2011, and quite recently the Catalanian independence struggle against Spanish rule, there has been a debate as to whether or not the Federation of Malaysia could really come apart. This essay discusses this issue in detail and concludes that Malaysia is neither a fractured federation, nor a fragile state. After 61 years of nationhood, it is now impossible for any Malaysian component states to leave the Federation under international law.