The Dynamic of Policymaking Process in Malaysia

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Abstract

The rapid progression in the new globalized world has caused significant transformation in policymaking process. Policymaking in developed countries have long moved towards new governance by becoming a more engaging in policy decision. While some views that Malaysia's policy system is impeded by executive dominance, the country to some extent has opened the process to public opinion and participation. The paper thus intends to describe the development of policymaking process in Malaysia by examining three major factors that shape the policy process, namely the governmental structure which represents the system, the processes which are undertaken by the civil service in making policy and the governance which is closely connected with the wider public The research is qualitative in nature and shall use secondary data only. The investigation eventually informs the dynamic of policymaking process in the country. Malaysia superficially is not far behind the other developed countries, the country already has its own engagement system to produce an inclusive policy. The only limitation underneath is to have an appropriate methodological approach to complement the system, in which this would invite future research in the field.

Keywords: public policy, policymaking process, public participation, collaborative approach

INTRODUCTION

In the decades that have since transpired, globalizing developments in technology, social, economic and political arena require a significant transformation in policymaking process. The process refers to the way in which policies are initiated, developed or formulated, negotiated, communicated, implemented and evaluated (Buse et al., 2012). The core requisite is for government to improve their policy performance by working with citizens, civil society organizations (CSOs), businesses and other stakeholders to deliver concrete improvements in policy outcomes and the quality of public services (OECD, 2013). Additionally, in various developed countries, the practice of public administration is increasingly concerned with placing the citizen at the centre of policymakers' considerations. The aim is to develop policies and design services that answer to individuals' needs and are relevant to their circumstances. On that account, citizens are conceived as resources, and collaborators in enlivening the system, rather than as mere recipients of it. Users of public services hence, are not defined exclusively by their needs but also by their contribution to service effectiveness, and to other users and their communities through their own knowledge, experience, skills and capabilities (Holmes, 2011).

In keeping with those transformation, some Western countries are even more advanced by engaging various instruments or mechanism in the process of policymaking. For instance, Finland introduced a national citizens' initiative instrument into its Constitution in 2012 which obliges the Parliament to deal with any crowdsourced initiative. The project enables citizens to present legislative proposals to the Parliament once they have reached the threshold of 50,000 signatures (Lastovka, 2015). The approach does not only help the Finnish government in improving their policies but in learning more about the public and in shifting public sentiment about the government (Day, 2014). Another instance is the enactment of Negotiated Rulemaking Act by United States since 1990 (Lubbers, 2006). Negotiated

rulemaking or commonly known as regulatory negotiation is a process where a committee is formed consisting of members representing the various groups that related to the proposed regulation itself. During the meeting, the general public may observe and usually at the end of each meeting, the committee offers an opportunity for public comment (Fiorino, 1988). The ultimate goal of the process is for the members of the committee to reach consensus regarding the proposed rule. When successful, regulatory negotiation can lead to better rules for everyone involved (Hillstock, 2014). Those types of mechanisms implies that twenty first century policymakers now has to engage into a more consensus based and collaborative policy process. The approach which brings policy actors together in some kind of relationship and emphasise bargaining and consensus-building rather than hierarchical relationships.

In developing country like Malaysia, policy is designed generally upon the requirement of the systems, structure and the future demand of the nations (Azman, 1998). Any development of public policy must be carefully formulated by taking into consideration many factors to give an acceptable norm of satisfaction among its citizen. Horowitz (1989) argues that policy formulation in Malaysia is essentially a centrally directed exercise. While the formulation process is to some extent open to public opinion and interest group influence, it is however a relatively autonomous administrative act (Omar, 1974). The more recent views for example Painter (2004) observe there is an executive dominance in the country's system of government and any formally inclusive policy process is impeded by the dominance of the executive with little resistance from society or states. Hunter (2013) further criticises that public policy in Malaysia is top down and made behind closed doors. On one hand Malaysia has benefitted from its institutional framework for policymaking, however insufficient checks and balances have led to increasing concentration of power within the executive (Kanapthy & Hazri, 2013). Those views contend that policy formulation in Malaysia is a highly bureaucratic act where most policy inputs and outputs are systematically determined by the government bureaucracy before proposals are made available to the public for debate and discussion.

MALAYSIA AND POLICYMAKING PROCESS

The objective of the discussion hence to describe the dynamic process of policymaking in the country. The notion of dynamic itself reflects the process continuously changing or developing (*Cambridge Dictionary*, 2017). It may conceptually refer to not only the way organizational structures, processes and culture can influence policymaking, but also understand the leader's priorities and the way policies will play its role and make an impact. Basically, it envisions that the policy core situated in the middle of three contextual layers, that is, political, organizational, and the wider public (Parson, 2001). Accordingly, Ansori (2013) further argues that there are several factors that shape the policy outputs and outcomes in the country. The argument in furtherance may serve to elaborate those features within the Malaysia setting. First politically, the processes are influenced by the structure of government which captures the highest-level shape and form of government. Second organisationally, the processes will be reflective of the nature of the civil service in which they occur, and the procedural steps involved in making policy. Finally, in terms of the public perspective, policy formulation processes are guided by governance which is a set of decisions and processes made to reflect social expectations through the management or leadership of the government (Fasenfest, 2010). Thus, to understand the major principles contained in the process of arriving at policy decisions in Malaysia, we need to have all-encompassing picture on the federal framework as the discussion below.

MALAYSIAN GOVERNMENT STRUCTURE

The term government structure is used as it portrays the systemic framework within which policy formulation occurs. It is defined as the institutional make up of government and the higher-level processes within these institutions for policy formulation and decision making (Ansori, 2013). In this context, Malaysia is based on the Westminster model (Ibrahim, 2012; Aziz, 1999). These include among others monarchical head of state, bicameralism, separation of power, a federal system and an executive body which forms the apex of decision making. With such background, the Supreme Head of the country is ruled by his Majesty the Yang di-Pertuan Agong (refer as the King) and the Constitutional Monarchy require the King to delegate all his state powers to a regent (Parliament, 2016). The King is expected to act on the advice of the Prime Minister but has some discretionary powers in appointing the Prime Minister and refusing to dissolve Parliament (Hickena & Kasuyab, 2003). In other words although the King is an integral part of the Parliament, it is only a formality and he actually participates minorly in the Parliament. However in the area of Islam particulary, the King holds overarching power (*Federal Constitution*, 1963).

With regard to Malaysia's bicameral system, the Upper House or Senate is known as the Dewan Negara. The Lower House or House of Representatives is known as the Dewan Rakyat. The 14th Malaysian General Election has decided a new setting for the government of Malaysia in which a coalition government, Pakatan Harapan has replaced the Barisan Nasional (BN), the dominant ruling members in the Parliament. The party has retained their influence for 60 years. The previous practice represented that the Prime Minister and the Minister were from the Dewan Rakyat and Dewan Negara (Parliament, 2016). The limitation when the Ministers comes from the Parliament is the issue of open and inclusivity. They are tasked to make the policy and draft the bill, and when the bill is going through the Parliamentary stage, the member of the Parliament tendencially favour the Minister's proposal because most of the members belong to the same party. Nonetheless the policy implications could be witnessed with the consistent and longer terms in political power, the Malaysian Government has been able to focus strongly on the future economic growth and social stability of the nation (MacAndrews, 1977). It can be witnessed when each Prime Minister brings his own agenda into public policy steadily for example Vision 2020 under Tun Dr. Mahathir Mohammed, the corridor development approach under Tun Abdullah Ahmad Badawi, and the Economic Transformation Program (ETP) under Dato' Seri Najib Abdul Razak. The new form of coalition government may have different approaches, however with several principles of the Westminster System adopted by the country, the Prime Minister shall always remain with extensive power in executive and may perform any decision in Parliament (Drexhage, 2015).

Another key feature of the Westminster is the separation of powers. The theory of separation of powers (Fairlie, 1923) provides for power to be exercised at three levels, which are the power to make laws. Legislative power is vested in the Parliament. The Executive means the power to administer laws and to carry out the business of government and the power is given to the government of the day. Finally judicial power is the power to decide whether laws are legal according to the constitution. The power is conferred on the highest court. In Malaysia, there are some overlapping parts between the three organs of government (Lee, 1996). It can be observed from the above discussion on the policy implication where the Executive and Legislative dominated by the ruling party and they occupy the membership of the Parliament. Whereas the Malaysian Judiciary is constitutionally an independent branch of the Government, however after 1988, the Judiciary was made subject to Parliament (Ansori, 2013). Unlike the Executive whom control the Parliament and gained the people's support, judges are subject to the appointment rather than by winning the election. In that case, the Judiciary earns less influence and authority than any organs because they do not represent any group of people (Shad Saleem, 2008). The overlapping indicates Malaysia follows the liberal approach of the doctrine of separation of power in which it exists interference between each organ in the function and membership (Ackerman, 2000). The practice which reflect the

Westminster system yet again leaves uncomfortable impression on the power concentration within the leadership of the country politically in formulating the policy.

The other important Westminister attribute is the concept of federalism. A well-accepted system and appropriate to be practised in the country (Nazri, et. al., 2015). It thus becomes a basis for government administration and machinery to correlate function between the state and the federal government. Such a system is effective to coordinate the development of public policy processes through the assistance of the government machinery. The Malaysian public administration is structured in three tiers, federal, state, and local governments. All major public policy of the country is decided by the Cabinet. At the state level, the State Executive Council (ExCo) is the Federal Cabinet equivalent. The ExCo comprises councillors from elected state representatives, headed by a Chief Minister and administratively supported by a State Secretary from the public service. At the local level, each local government is governed by a district council which is headed by a district officer from the public service. The local governments implement policies of federal and state governments. Therefore in this country the federal model operates by reserving more power to the central government. Thus, as described by Shad Saleem (2011) that in numerous ways the centre can encroach on state rights without much difficulty. Such centralised federalism has significant policy implications in which it could influence the nature and scope of government at the sub-national level. The only limitation is with the recent development of General Election where several states are governed by the Opposition Parties which may reduce the power of such centralised federalism.

Above all the features, it denotes the apex of decision making relies on the Executive. The party that controls the Dewan Rakyat forms the Cabinet, which is headed by the Prime Minister. The Cabinet comprises "*Ministers who are experienced in the field of public administration*" (Ahmad Sarji, 1996: 159) and they are collectively responsible for decisions made by the Cabinet (Ahmad Sarji, 1996b). The Cabinet in Malaysia is key decision making body of the government and play important roles to support the decision-making process at the federal level of government. These are due to several factors for instances the Malaysian Cabinet is assisted in the discharge of its functions by three national councils, the National Planning Council (NPC) which considers major public policy in the economic and social field, the National Action Council (NAC) which considers matters on implementation of development programs and projects, and the National Security Council (NSC) which deals with security aspects. All three Councils are chaired by the Prime Minister and made up of key ministers (Economic Planning Unit, 2010). These centralisation of power around the Prime Minister reflected the substantial role of the Executive in the policy decision and making process.

MALAYSIA PUBLIC SERVICE

The structure of Executive is assisted by the government machinery that is, the Malaysia Public Service (MPS) (Kanapthy & Hazri, 2013). Article 132 of the Federal Constitution defines it as consisting of the General Public Service of the Federation, the Public Service of the States, the Joint Public Service, Education Service, Judicial and Legal Service, Police Force, and Armed Forces. Each of these services has its own Commission or Council, appointed by the King to ensure impartiality and protection from political interference. The MPS is diverse. Each level of government is composed of public administrators from some, if not all various classifications of schemes of service. All public administrators from any scheme of services are required to implement and administer policies which are legislated by Parliament (Ahmad Sarji, 1996) at all levels of government. Respectively the noble service is headed by the Chief Secretary to government (whose Malay abbreviation is KSN) with a Secretary General appointed for each ministry. The agencies are classified into central and operating agencies. The main central agencies such as the Public Service Department (JPA), and Economic Planning Unit (EPU). Other ministries, departments, statutory bodies, and branches are referred to as operating agencies. The central agencies are considered powerful due to their

control over operating and development budgets, as well as personnel matters of the operating agencies (Abdullah Sanusi et al., 2003). The central agencies, which fall under the Prime Minister's Department, also coordinate government policy development through various cabinet secretariats. The co-ordinating role of central agencies will ensure effective implementation of programs and initiatives of government, which involve participation from several operating agencies.

The MPS has certain characteristics which are important in policy development. Several authors outline three significant characteristics of the MPS (for example Abdullah Sanusi et al., 2003; Ahmad Sarji, 1996) which require some discussion to relate them to the policy development process. The first characteristic concerns the impartiality of the public service. Various measures have been stipulated in the MPS to ensure public administrators appointed are non-partisan. The role of the independent service commission, the Public Service Commission (PSC), is an important measure to ensure the neutrality of public administrators. The second characteristic is the diverse areas of expertise among public administrators. Senior career public servants are usually considered to be experts in administrative affairs with specialist knowledge and 'corporate memory' from many years working in a particular portfolio or on a particular issue. Even at the lower levels of the public service, officers are increasingly expected to use detailed analysis and expert input to their policy recommendations. Their 'on the ground' practical knowledge about a policy proposal or escalating political issue is also, at times, richer than that of the minister. The third characteristic involves the personal position of public administrators around the prestige and assurance of job security offered by the post. A demand to fill the post in the MPS shows its prestigious status compared to the private sector (Abdullah Sanusi et al., 2003).

All three characteristics of public administrators, those are impartiality, expertise, and personal position place a high expectation on them to develop good policies in the MPS. Public servants thus are integral to the policy formulation process. While ministers are usually the legally appointed decision maker, they base extensively on the advice from officials, and they source of the policy directives on the public service (Ansori, 2013). Despite the argument on the role of government bureaucracy, at least the standards justify the high level of discretion entrusted to the public servants. As a result, public servants are inevitably involved in policy formulation which occurs at the micro-level, and often have considerable discretion in carrying out policy (Spann, 1979). Even though formal responsibility for policy decisions rests with the minister, Ansori further claims Malaysia public servants have significant scope for influencing the formation, interpretation and implementation of policy. Ministerial policy decisions are usually derived from analysis and advice provided by public servants and this gives public servants additional influence over policy decisions. Given this bureaucratic influence, Malaysian policy formulation processes must consider the bureaucracies and the bureaucratic processes in this country

With such type of organisational setting, public policy in Malaysia can be created through one or combination of three processes (Azman, 2001). First is through political channel, whereby the policy is initiated through Cabinet orders or through the recommendation of several political ruling parties. Second is via administrative processes at the ministerial level. Since a policy has implication on the administrative machinery, the drafted policy is discussed at several high-level of government meetings. Third is by the combination of both processes via integrated approach or interaction. Within the interaction, Special Committees may be set up to study the policy in-depth before presenting it to the Cabinet. One example of policy which describes all the three processes is New Economy Policy (NEP). The formulation of the NEP started immediately after the riots when the country was ruled by decree (Faaland, Parkinson, Rais, 1990). It was to address what were perceived to be the basic economic problems in the country. It is critizised as political since the decisions were made by an exclusive number of top government officers who had little choice under the circumstances but to agree with the general policy proposals made by the Prime Minister at that time (Ho, 1998). Whereas in terms of ministrial level, the Department of National Unity (DNU), with the patronage and support of the KSN also play important roles in the drafting of policy. The origin of the policy was argued from the DNU (Faaland et al., 1990). Although the

initial formulation of the NEP had its origin in the DNU, it was the EPU in the Prime Minister's Department that finally put together the plan. The broad functions of the EPU enabled it to formulate broad objectives as well as detailed proposals in development planning. These arguements on the development of the NEP however indicate the NEP could also be developed through ministrial level as well as the integration with the political channel (Ho, 1998).

MALAYSIA GOVERNANCE

Government policies are also influenced by the governance arrangements. Significantly governance captures the arrangement of diverse but interrelated elements that influence government decisions and processes. It seeks to promote established processes for decision making and implementation, with these processes arguably leading to the 'best' policy outcome for citizens (Gildenhuys, 2004). Governance seeks to share power in decision making, encourage citizen autonomy and independence, and provide a process for developing the common good through civic engagement (Jun, 2002). Based on the premise, the government of Malaysia principally has actively pursued the policy of administrative reform and modernization since 1957 (Ahmad Sarji, 2003; Siddiquee, 2007). Accordingly the new government also puts high priority to bring about reforms to our institutions of government as highlighted by the current Prime Minister (*The Star*, 2018). He also emphasizes on the New Malaysia would mean the government would have to go back to democracy and the rule of law, redress miscarriages of justice and respect for the wishes of the people. The direction denotes on the consistency of government's standpoint regardless the changes in the ruling party on upholding the practice of good governance in this country, particularly on encouraging governance commitment in the decision-making.

With the spirit of transformation, Malaysia has developed a policy on Good Regulatory Practice (GRP) with the launching of the National Policy on the Development and Implementation of Regulations (NPDIR). The policy is formulated due to the awareness that the current rulemaking processes are based largely on practices that have evolved over time and have not been consolidated into laws or officially issued guidelines. The absence of an official guideline has on occasion created gaps in the rulemaking process resulting in ineffective regulations and unnecessary regulatory burdens on industry and businesses (Malaysia Productivity Council (MPC), 2013). The policy emphasize that regulators must ensure that stakeholders are effectively consulted in the course of regulating and they have an opportunity to participate in the regulatory development process. Simultaneously to facilitate the implementation of the NPDIR, the *Best Practice Regulation Handbook* (BPRH) has also been produced. The guideline provides a reference for Ministries and federal agencies in conducting their public consultation exercises. It will also clarify the role of the stakeholders involved in the public consultation (MPC, 2013). For the general public, the information will provide them with better understanding on the transparency and democratic process of the government when developing regulations that will affect them.

As a result, the current practice of the policymaking process in the country can be seen from several efforts, for example the process of '*Transformasi Nasional 2050*' or commonly cited as TN50. It is an initiative to plan for the future of Malaysia in the period 2020 to 2050. From the vision of becoming a developed nation, Malaysia is set to embark on a new 30-year transformation plan which will set a new 'vision' for the nation. The process of the development of TN50 witnesses the government, including civil society, the business community and the universities, actively participate in all stages of the planning process. They are fully consulted and are invited to openly share their views and constructive criticism through various series of roundtable discussion. The main aim of the consultation is for all Malaysians to feel that the draft blueprint TN50 was inclusive and truly reflected the views of the Malaysia (*Transformasi Nasional 2050*, 2017). The practice verifies greater autonomy from the citizen in policy decision in which the same spirit is insisted by the new government in strengthening

democracy in the country. Malaysia in general still retains the structure of democracy, however the recent 14th General Election witnessed that public opinion in the country has radically changed and expressively improved. They have significantly played greater role to reassert their right to participate in the government's resolution.

MALAYSIA'S POLICYMAKING PROCESS: A WAY FORWARD

In sum, the three contextual layers which encompass the discussion on the country's profile politically, organisationally and from the wider public perspective envisage the dynamism of Malaysia's system in policymaking process. Politically, the country holds to its Westminster model. The features inherently and indirectly have shaped the local policy system by which is impeded by executive dominance with a centrally directed exercise. Organisationally the structure reflects the administering of the process by the government's machineries including the approach that they adopted. The practice likewise suggests that most policy inputs and outputs are systematically determined by the government bureaucracy. The two factors are commonly associated with the notion of 'top-down' process practised by the country. However, the Government is continuously striving for new avenues through which the country can maintain and enhance its efficiency and competitiveness. Some efforts as elaborated have been done for consensual building in the process. Hence from the wider public perspective, the country is not far behind from other developed countries in engaging more stakeholders in the policymaking process.

The scenario also proposes that despite of its historical structure which permits elite deliberation, Malaysia is now entering a new phase of its democracy of public deliberation or a deliberative democracy (Mohd Azizudin, 2009). The term relates to a society in modern era where public happiness can no longer be defined as simply receiving the benefits and advantages of development. Conversely, it is also linked to public participation and deliberation in the process of how development is planned, executed, and evaluated (Saifuddin, 2008). The changes on the outlook may largely influenced by politically the Government begins to realize that they are facing a strong civil society. For example, the two years General National Election in 2008 and 2013 which seriously affect the electoral outcome have witnessed the emergence of new wave of public voice through the social media (Gomez, 2014). The recent 14th General Election also demonstrates a real power of '*rakyat*' in determining the new ruling party to govern the country (Moniruzzaman & Kazi, 2018). The civil society in Malaysia hence has become a legitimate channel for social and political participation and for influencing policy formation and public opinion. The Government thus must be responsive to the public good and its interests to be accepted by the people and prolong it control of power. The lesson that can be learned is that the Malaysian citizenry is far more sophisticated than the government had anticipated. The effects of development, globalization and information dissemination have changed their worldview and landscape.

The recent initiative of the country to engage public or different stakeholders in the process of policymaking denotes that inclination of the country to venture into other innovative way in policy process. In fact, many government decision-making processes have included a public involvement stage (Oregon Dispute Resolution Commission, 2000). In this stage, government officials disseminate information and request the public's feedback and input through hearings, the submittal of written comment, or various sorts of forums and other public outreach activities. While this approach assures an opportunity for public review and comment, there is little opportunity for true communication or a stakeholder's ability to effectively influence decision-makers. While officials are working very hard to listen and be responsive to citizens, they recognize that they need more than typical public involvement techniques. Furthermore, all policymaking process is not only for an effective decision-making, but it is also a process which allows effective communication between policy stakeholders. In view of that the new urban governance have adopted collaborative approach which requires new processes including dispute resolution such as negotiation, mediation, and voluntary

monitoring for implementing and enforcing policies (Bingham, 2006). These processes empower citizens and stakeholders to exercise their voice and become more engaged in their communities. They make it possible for leaders to collaborate with community stakeholders, and together to develop a consensus on priorities based on community values and interests rather than simply legal rights (Oregon Dispute Resolution Commission, 2000). Of all the advancement confirms the view of Gilliat (1984) and Theurt (2014) that the essence of policy process itself is something dynamic, fluid, ever changing and constantly evolving interactive and adaptive system.

On a different angle, it is argued that developed and developing countries, and even among other developing countries or other developed countries have different policy context. Some approaches cannot be instantly applied for formulating the policies of developing countries. Varieties of socio-political and economic forces peculiar to every single country shape a specific nature of policy context which in turn, produces a different kind of policy (Ferdous Afrina, 2001). This is because every policy has got its own policy network which varies depending on every country's socio-economic and political conditions. Nevertheless, the country should regard the differences constructively. As word of the successes spread, more and more public managers and community leaders are turning to collaborative approaches to address today's complex and often contentious public policy issues (Sclove, 2010). The country may challenge itself to explore such different approaches or even other advanced approaches since by nature policymaking itself is not only achieving what is in the public interest, but in doing so by the best possible means (Dror, 1989). The interdependence between ends and means relatively relies on the country's setting politically and organisationally since the relationship depends greatly on the implications for power of changes in means. When means change according to Dror, it also brings the changes in the power distribution. This interdependence thus is the most important determinant in shaping the dynamics of public policymaking overtime.

CONCLUSION

Moving into the 2020s, the disputes, problems and conflict which public administrators confront are much more complex, multifaceted, and intense. Whereas the Government cannot succeed in delivering the outcomes people want if the policies they are implementing are flawed or inadequate. Parsons (2001) cites a report of the *White Paper* of 1999 on Professional Policy-Making for the Twenty-First Century, that therefore the modern policymaker must be flexible and innovative. They must be willing to question established ways of dealing with things and to create an environment in which new ideas can emerge and be tested. Despite the country inherited the unique of Westminster value which disadvantageously portray Malaysia as other typical developing countries, the country flexibly welcome variations and deviations particularly in ensuring its vision to be a developed country achieved. Accordingly, some efforts that have been taken by the country to improve their quality of policy decision implies its readiness to meet more challenges. With its good governance practice by adopting several mechanisms in engaging public in the process of policymaking, the country may need to endeavour more innovative ways in its policy formulation system. As Dror (1989) opines that all efforts that have been introduced may not be effective without a comprehensive change in policymaking methods, policymaking organisation and the capacity of policymakers. Thus, this may be a strong justification to call for further research to strengthen the existing practice within the scope of collaborative engagement. The approach not only to generate an effective decision making but also to ensure effective communication that is able to resolve any contentious public policy issues in all levels and angles. Eventually it is a hope that a further finding will accordingly advocate the more dynamic of policymaking process in this country.

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