

Role of Monarchy and Traditional Rulers in Malaysia

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Introduction

Malaysia is internationally known as a country that subsist and developed based on the system implanted by the British when their occupation of Peninsula Malaya becomes absolute in 1948. In continuance of the system introduced by the British democracy were sowed in the 1957 Federal Constitution; a constitution that provides for Westminster Parliamentary system of government, the doctrine of supremacy of the constitution, independence of judiciary and at the same time preserving the institution of monarchy that had been in place for almost 400 years prior to the British occupation. Thus besides the legislature, executive and judiciary, there is a fourth branch in Malaysia government, namely the monarch.

Evolution of the institution

The institution of monarchy in Malaysia had undergone numerous changes and challenges. Absolute monarchy is history; the constitution transforms the institution into constitutional monarchy, meaning that rulers have to act on advice. Besides the traditional monarchy system, the constitution introduces an institution of elective monarchy, known as the Yang di-Pertuan Agong (YdPA), whom is the supreme head of the Federation.¹ He is appointed among the nine Malay Rulers for a period of five years. All nine rulers will have a chance to become the supreme head. Initially the selection is based on seniority, since all rulers had served as the YdPA, the order is now determined by the order of states who has been the YdPA. If the ruler is a minor, he will automatically be disqualified.

Power of the Monarch²

The constitution authorized the YDPA to exercise various functions, namely the custodian of executive power,³ an arm of Parliament,⁴ guardian to the rights of the Malay⁵ and

¹ Art 32 There shall be a supreme head of the Federation to be called the Yang di-Pertuan Agong...

² The term monarch refers to Malay Rulers and Yang di-Pertuan Agong. Malay Rulers is the supreme head of the state.

³ Art 39 reads: The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong and exercisable, subject to the provision of any federal law and of the Second Schedule, by Him or by the Cabinet or any Minister authorized by the Cabinet, but Parliament may by law confer executive function on other person.

⁴ Art 44 states:- The legislative authority of the federation shall be vested in a Parliament, which shall consist of the Yang di-Pertuan Agong and two Majlis (House of Parliament) to be known as the Dewan Negara (Senate) and Dewan Rakyat (House of Representatives).

religion of Islam⁶. Besides these functions YdPA is the protector to all Malaysian as indicated in the oath of office. These functions are crucial in the survival of the nation and had become the subject of controversy in the relationship between the monarch and executive.

The power of the monarch is exercisable by Him in two ways, firstly, based on his own discretion, which means His Majesty does not has to seek opinion from other authority, secondly, on advice. The advice may come from the head of the government, Cabinet the Conference of Rulers or other offices. When the power has to be exercised on advice the Constitution stipulates that His Majesty is bound by the advised given.

Role of the Monarchy

The power that the monarch may exercise on advice is mainly in regards of forming a government and ensuring that the government functions effectively. Thus the monarch is given the power to appoint the head of government or to withhold the dissolution of legislature. When appointing the head of the government the monarch has to be sensitive to the feeling of the members of legislative assembly, thus he may appoint someone who received the confidence of the member of the legislative assembly. After the 12th election, at least in two states the head of government is appointed against the wishes of the party presidency.⁷ The situations become more complex when there is a coalition government. To ascertain the person who likely to command the confidence requires wisdom.⁸

The monarch will have to ensure that the government can take care of the people well being. Thus if there is a request to dissolve the legislature he has to examine the problem that lead to dissolution is genuine. Thus, if the request will lead to further problem the monarch may refuse to give consent for dissolution. This can be seen in the action of the Sultan of Perak in his capacity as defender of the people refused the application of the coalition government to dissolve the legislature when the defection of three assemblymen causes the coalition to loss majority in the assembly.

The role of the Monarch had always been regarded as ceremonial. This might be true prior to the 2008 election. Recently, there are instances when the monarch comes forward to assert their authority over the conduct of the executive or politicians. This was taken as an exercise of the monarchy rights which comprises of the right to give views and counsel, the right to encourage and motivate, and the right to remind and reprimand.⁹ The ruler also call for the notion that 'the Malay Rulers are just ceremonial emblems for official functions with no

⁵ Art 153

⁶ Art 3

⁷ The two states are Terengganu and Perlis.

⁸ The difficulty is reflected in the state of Perak when the government comprises if a coalition between PAS, PKR and DAP known as *Pakatan Rakyat* (Citizen Coalition)

⁹ The Star, 19 April 2009, Rulers are above politics: Sultan Azlan Shah

vested power'¹⁰ to be corrected. The new insight of the role of monarch is important since the institution can act as the balance wheel to the executive power.

The monarch can be perceived as apolitical and has no inclination to any parties. The neutrality of the institution is portrayed when members of the legislature and executive have take oath of office before the monarch. Thus they have to heed the monarch advice when he speaks.

Besides caring for the stability of government, the monarch has to care for the people welfare. His Majesty has to ensure that the people can live peacefully, thus if there is any issue that may cause tension the monarch will step in to remind the people on the importance of the different races to built understanding and respect each others rights. The monarch repeatedly reminds Malaysian on 'social contract' and the importance to regard themselves as partners and avoids tension that may lead to violence. Even though the YdPA is constitutionally responsible to protect the Malay and religion of Islam, this does not caused other races to be left out.

Conclusion

The monarch in Malaysia will continues to play an important role and this is evident in their success to curb further decline in Malaysian social compact especially at the time of weak political integrity and economic turbulence.

¹⁰ The Star, 9 July 2009, Respect Role of Malay Rulers.