

The Functions of Constitutional Monarchy in Malaysian Political System: The Perceptions of Malay Community

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Abstract

The monarchy plays a vital role in Malaysia's political system whether it is at federal or state level. Its formal duties are stated within the Malaysian constitution. It is a continuity to promote political and ruling stability. Hence Malaysia practises a system of government based on the Constitutional Monarchy and Parliamentary Democracy. The objectives of this paper are to study the extent of the monarchy roles as stated in the constitution. In addition, it is also to evaluate the perception of the Malay community towards the relationship between the monarchy and the government as well as the constitutional monarchy and the general community. The study limits its focus only to the role of monarchy in Malaysia and will also discuss about the additional roles of the monarchy besides its formal roles. The study will focus more on library research. Data are obtained through printed materials produced by local and international writers and publishers. The Malaysian Constitution will be the primary reference to the study. The perceptions of the Malay community are obtained through observations and reading materials that represents a part, if not the whole, of Malay's perception towards the issue. Through this study, it can be summarised that the Malaysian Constitution bestows special privileges to the monarchy system. Thus, the boundary listed in the constitution ensures that the monarchy system continues to be revered. Loyalty to the King becomes a tradition and custom to the Malay community.

Keywords: constitutional monarchy, political system, perception, Malaysian constitution

1.0: INTRODUCTION

The word 'monarchy' originated from the Latin word 'monarchia' that represents the rule of an individual, regardless of the gender or the ruling trend (Starkey 2005). Max Weber is the pioneer in using the term of monarchy that refers to the monarchy ruling. A monarchy in the strict sense of the term is a state ruled by a single absolute hereditary ruler. A constitutional monarchy, however, is a state headed by a sovereign who rules according to the constitution (Bogdanor 1997).

As a political entity, the monarch is the head of state, generally until their death and is wholly set apart from all other members of the state (Bouvier 1914). The person who heads a monarchy is called a monarch. It was a common form of government in the world during ancient and medieval times. In modern use the word monarch generally is used when referring to a traditional system of hereditary rule, with elective monarchies often considered as exceptions.

The earliest record of monarchy was found in Persia in 5BC (American Dictionary of the English Language 2010). This constitutional is closely related to the deity doctrine. The doctrine stated that rulers are a part of a deity (Bossuet, 1704). They are believed to possess special powers such as fertilising the land as well as victory in battles. The rulers' monopoly in areas involving religion, bureaucracy and law made it possible to exercise absolute monarchy reign. This implementation will eventually lead to dictatorship and tyranny ruling. Currently, 44 nations in the world have monarchs as their heads of state, 16 of which are from the Commonwealth realms that recognize Queen Elizabeth II as their head of state.

Monarchy governing is widely known during the rule of the Rome Empire. Charlemagne was crowned as king by the pope during the 800. Most of the Roman Kings are known as Caesar with other titles such as Czar (Russia), Shah (Prussia), Kaiser (Spain) and more hold the same degree and meaning (Pathmanathan,1993). Variations to the

monarchy form of government are supported by internal of each nation. During the colonization period, rulers collaborated with colonist that led to deposition. The rulers were bribed with offers of pensions with the condition that they relinquish their throne.

Rulers who supported the nationalism efforts would be maintained. However, this preservation would be adjusted according to current demands. An example can be seen in Malaysia whereby the Yang di-Pertuan Agong is appointed by the Malay Rulers' Council in a secret ballot. Only the 9 royalties have the right to vote and the system follows a succession line by states, the idea of an elected monarchy was first mooted by the first prime minister, Tunku Abdul Rahman in 1957 and the first King was from Negeri Sembilan whose image adorns the Malaysian currency (McDonald, 1996).

Early history of constitutional monarchy in Malaysia started off with the Malacca Sultanate. Khoo (1993) stated that a record from the Ming's Dynasty in China revealed that traders visited Malacca that was governed by Megat Iskandar Shah as its second ruler. He was crowned on 5th October 1414 as his father, Parameswara's successor. The term 'sultan' was first used by Muzafar Shah on 30th May 1455. Other Malay Sultanates are believed to have derived from the split of the Malacca Sultanate. The split leads to 4 Malay Sultanates, namely the Kedah Sultanate, Pahang Sultanate, Johor Sultanate and Perak Sultanate in 1530. The number of the Malay Sultanates increased to 9 in 1885. Thus, the Malacca Sultanate was referred as the pioneer to the constitutional monarchy in Malaysia. However, the Selangor Sultanate is considered as an exception since its origin was from the Bugis Dynasty and the Negeri Sembilan Sultanate from Minangkabau in Sumatra.

Succession struggles and foreign intervention are the main factors that contributed to the constitutional monarchy. Nevertheless, the constitutional remains to be uphold after the nation receives its

independence. Despite the British's efforts to remove the constitutional monarchy through Malayan Union, the people's love and devotion to the constitutional becomes the key in preserving the constitution.

2.0: RESEARCH METHODOLOGY

The focus of this study is library research. Data are obtained from printed media and materials. The formal duties of the constitutional monarchy as stated in the constitution will be the main focus of the study. These duties will be followed by other aspects of the formal duties. Thus, the main source of information will be the Constitution of Malaysia (amendments until 15 August 2003). Other sources of references will be from various materials by local and international authors. The Malays' perception will be collected through observations and reading materials. Thus, it is hoped that the study can represent partly or the overall perception of the Malay community towards the constitutional monarchy.

3.0: RESULT AND DISCUSSION

The constitutional monarchy in Malaysia consists of Yang di-Pertuan Agong as the head of the states of Malaysia, six sultans (Selangor, Terengganu, Kelantan, Pahang, Johor, Kedah, Perak), a Raja (Perlis), Yang Di Pertuan Besar (Negeri Sembilan) and a Yang di-Pertua Negeri (Malacca, Sarawak, Sabah).

All 9 posts are posts inherited by their respective lineage. The 4 remaining states that do not have sultans will have appointed Yang di-Pertua Negeri or governors. The Yang di-Pertua Negeri or governors are also a part of the constitutional monarchy (Article 38(1) and the Fifth Schedule of the Constitution 2003).

However, the governor possesses limited authority whereby they cannot elect and appoint Yang di-Pertuan Agong. Aside than that, the governors are not the head of the Islam religion in their respective states. All sultans and governors establish the Conference of Rulers.

a. Constitution Provisions that Provides Various Privileges

The appointment of the Yang di-Pertuan Agong and the Timbalan yang di-Pertuan Agong can only be exercised by the Conference of Rulers (Article 32 & 33 and First Schedule of the Constitution 2003). His Majesty must be on the top of the selection list (Mohammed Sufian 1983). He also must have obtained at least 4 votes.

A person can only be appointed as King once for 5 years unless everyone had the chance to be appointed, a Sultan can withdraw from the balloting if he does not intend to be selected as the Agong. Once a King is appointed, his home state will be headed by the crown prince. In the balloting a deputy king will also be selected and he will head the country in circumstances when the King is unable to perform his duties (McDonald 1996).

The Conference of Rulers is entitled to dismiss the Yang-diPertuan Agong by discretion (Part 3 third schedule of Constitution 2003). This requires a vote of 5 votes. This privilege is only accessible to the rulers. Thus, the Yang di-Pertuan Agong cannot be appointed or dismissed by the parliament or other bodies. However the monarchies cannot be dismissed at all in Britain while the president can be challenged by both parties of the parliament in India.

A king possesses special and absolute roles in appointing a regent or the royal vice envoy as a substitute should the regent has passed away or unable to perform his duties (Article 34(8) Constitution 2003). The constitution also set a royal provision for the Yang di-Pertuan Agong. The annuity paid to his majesty and Raja Permaisuri Agong as well as the Timbalan Yang di-Pertuan Agong cannot be reduced through the period of his majesty's rule (Article 35(1) Constitution 2003). Throughout these formal roles, it seems clear that the Yang di-Pertuan Agong leads the Conference of Rulers and overcomes other people's priority of every citizen in the constitution. The Raja Permaisuri Agong is the second

person (Article 32(2) Constitution 2003) after the Yang di-Pertuan Agong from the aspect of protocol. The rulers and the Yang di-Pertuan Negeri are at the same level in their respective states.

b. Constitution Provision in the form of Controlling and Limiting

The constitution also gives provisions in the form of control and limitations. The purpose of this provision is to ensure that the constitutional monarchy will always be respected and revered.

Through the duration of holding the post of the Yang di-Pertuan Agong, His Majesty is not allowed to perform his duties as the ruler of his state with the exception of being the head of the religion (Article 34(1) Constitution 2003). However, His Majesty is allowed to perform his duties as the ruler of the state in amending the constitution. The appointment of a regent or the royal vice envoy are the exception for the constitution provisions. The Yang di-Pertuan Agong cannot accept any post that provides any remuneration (Article 34(2) Constitution 2003). His majesty is not allowed to take part in any business enterprises.

The Yang di-Pertuan Agong is not allowed to leave the federation in a period of more than 15 days, with the exception of visits to another nation. Should the Timbalan Yang di-Pertuan Agong perform his majesty's duties in a period of more than 15 days, he is also compelled to the matters that are not permitted to be performed by the Yang di-Pertuan Agong (Article 34(7) Constitution 2003).

The matters that are not permitted to be performed by the Yang di-Pertuan Agong can also not be performed by the Raja Permaisuri Agong since 1976. Thus, the Raja Permaisuri Agong is prohibited from being active in any business. Her majesty is also not allowed to hold nay post that gives any form of remuneration (Article 34(6) Constitution 2003).

c. Constitutional Provisions that Refers to the Responsibilities

In accordance to the constitution, civil service includes judiciary services

and legislation, the army, the police, federal services and others (Article 132 Constitution 2003). Thus, the executive responsibility for the Yang di-Pertuan Agong is to appoint civil service servants. Yang di-Pertuan Agong needs to envoy Minsiters to provide council in performing his duties. Before that he needs to appointed Prime Minister who are received majority support from Parliment. This is also occurs that state level (Jaymal Zahiid & Debra Chong 2009).

The Yang di- Pertuan Agong is the Commander-in-Chief to the Federation's Armed Forces. However, His Majesty is not bound to the duties and discipline of the military. The Yang di -Pertuan Agong will appoint a royal armed force council (Article 137 Constitution 2003). Yang di- Pertuan Agong also will appoint Election Commision (Article 114 (2) Constitution 2003). The election commission is an independent body established to handle matters involving the elections. The Yang di-Pertuan Agong appoints this commissions after discussing with the Conference of Rulers.

Auditors play a vital role in controlling the financial state of the nation. Thus the Yang di- Pertuan Agong needs to appoint a national auditor with the advice from the prime minister after the negotiations with the Conference of Rulers (Article 105 Constitution 2003). The auditor's report will be presented at the Dewan Rakyat once it receives the order from the Yang di-Pertuan Agong (Article 107 Constitution 2003).

As a constitutional nation, several commissions are established to coordinate several development plans that involve land, financial, local government and others. The national land Council, a national commission for the local government and the financial commission is established (Article 91, Article 95(a) and Article 108) Constitution 2003). The king or the Yang di-Pertuan Negeri is authorised to appoint representatives from each state to join these commissions. These commissions will negotiate with expert committees and suggest a development plan to the

Yang di-Pertuan Agong. The plan will be presented and the areas involved will be announced after receiving the approval from the Yang di-Pertuan Agong. The parliament is authorised to implement the announced plans (Article 92(1) Constitution 2003).

In accordance of the term separation of power, the Yang di-Pertuan Agong is authorised to appoint the lord president, the high court supreme judges and other judges for the supreme and high court after receiving the counsel from the prime minister (Article 122b(1). Constitution 2003) The importance of the judiciary is prioritised as the location of the registration headquarters for Borneo high court will be placed is set by the Yang di-Pertuan Agong after the counsel from the prime minister and the chief ministers from Sabah and Sarawak (Article 121(B) Constitution 2003).

It is found that the provisions in the constitutions involve the appointments of the judiciary. Moreover, the setup priority for the judges are finalised by the yang di-Pertuan Agong (Article 122b(6) Constitution 2003). Aside than appointments, the Yang di-Pertuan Agong has the authority to dismiss or change the judges.

Prior to performing his duties, the constitution improvise that the Yang di-Pertuan Agong to sign a post oath before the Conference of Rulers. The oath will be witnessed by two people who are appointed by the Conference of Rulers (Article 37(1) Constitution 2003). Being present at certain ceremonies such as the oath swearing for the ministers (Article 37(1) Constitution 2003) and the supreme court lord president (Article 124 (1)) Constitution 2003).

Declaring the state of emergency is the executive responsibility of the Yang di-Pertuan Agong. The declaration will take place once his majesty is convinced and satisfied that the security, economy life or national peace is at stake (Article 150 Constitution 2003). Other executive

responsibilities include appointing 4 education service commission after receiving the counsel from the prime minister (Article 141a Constitution 2003). The Yang di-Pertuan Agong, as requested by the constitution, is required to appoint an appeal assembly for the public and education service commission (Article 143 Constitution 2003). Should a citizen be sentenced and an appeal is made, the Yang di-Pertuan Agong will appoint a pardon committee (Article 42(5) Constitution 2003) and the regulations that can be made to smooth the course of the appeal committee (Article 42(11) Constitution 2003). Lastly, the constitution improvises that Yang di-Pertuan Agong can conduct other duties other than the ones stated in the constitution (Article 40(3) Constitution 2003).

Yang di-Pertuan Agong is one of the many components of the parliament. However, his majesty is only present during the official opening ceremony of any parliament sessions. In addition, his majesty also does not have the authority to vote in any parliament sessions.

The Yang di-Pertuan Agong usually give a speech in the parliament sessions (Article 60 Constitution 2003). His majesty's speech's are mainly on explaining on the development plans previously done and will be done by the ruling party.

The constitution also provides the Yang di-Pertuan Agong the authority to appoint 40 members of parliament. Appointed members of parliament consist of experienced figures or figures who represent specific interests. His majesty also approves the appointment of two members from the Federal Territory of Kuala Lumpur and the Federal territory of Labuan respectively (Article 45(1) Constitution 2003). To start the course of the senate, the Yang di-Pertuan Agong can appoint or dismiss a member of the parliament or any individual from the senate (Article 65(1) and Article 65(2) Constitution 2003).

The main function of legislation to the Yang di-Pertuan Agong is to sanction the bill enacted by the parliament. Once the bills are endorsed by both parties of the parliament, they will be presented to the Yang di-Pertuan Agong for approval (Article 66(3) Constitution 2003).

The Yang di-Pertuan Agong or other rulers can acknowledge within the period of 30 days. The bill will be valid for legislation once it is stamped with the Royal Seal (Article 66(4) Constitution 2003).

The constitution also provides the Yang di-Pertuan Agong to summon the parliament for meeting from time to time. His majesty cannot let a period of six months between the last proceedings in one term with the appointed date for the next meeting for the following term (Article 55(1) Constitution 2003). In addition, the Yang di-Pertuan Agong is also provided with the authority to dissolve the parliament (Article 55(2) Constitution 2003).

The Yang di-Pertuan Agong will receive counsel from the Attorney General regarding duty matters that involves the legislation from time to time. The authority to pardon and to delay the sentence on all offences allowed by the military court and the Federal Territory of Kuala Lumpur and Federal Territory of Labuan becomes the responsibility of the Yang di-Pertuan Agong. This responsibility covers the duty to chair meetings and appointing pardon assembly members.

It can be summarised that the constitutional provisions that refers to the responsibilities with executive characteristics are the most implemented by the Yang di-Pertuan Agong and the Conference of Rulers. **28% (50/181)** of it involves with the necessary appointments. However, the appointment of certain posts requires the counsel from various respective parties such as the prime minister, lord president, attorney general, the Islamic religion council and others. This implies that the functions and role of the Yang di-Pertuan Agong and the Conference of Rulers in making appointments are officially treated as a symbolic gesture.

A total of **9% (17/181)** provision covers the constitution provision that provides various privileges. This provision is articulated to ensure the retention of the sovereignty of the constitutional monarchy. It seems that this privilege is inherited from the absolute constitutional monarchy during the feudal era. A total of **3% (5/181)** is the provision in the form of control and limitations. These provisions are found to strengthen the previous provision. The provision works to ensure the effectiveness of other institutions that have specific responsibilities other than other privileges that are not possessed by other people. It is clear from the accordance that the constitutional monarchy plays a vital role in the Malaysian political structure. Its functions symbolises the three governing components which include executive, legislation and judiciary.

4.0 THE PERCEPTION OF THE MALAY COMMUNITY TOWARDS THE CONSTITUTIONAL MONARCHY

Ancient Malay literature and art works recorded the communication paten between the Malays and the constitutional monarchy. Hikayat Hang Tuah, Hikayat Raja-Raja and Malay history and others are a part of these records. The perception of the Malays can be obtained through these writings.

The Malay kings are believed to have special sovereignty. Thus, the kings possess many rights and facilities. This phenomena lead to immunity from any comment and chastise. As a respond to this immunity, the people offer absolute loyal to their kings. Thus, it is clear that this perception is culture based (Zainal Abidin 1970).

The perception of the king's sovereignty can be related to religion. At early stages, the constitutional monarchy originated from God. The 'Devine right of theory' by the Westerners speculated that the kings possess certain privileges that are not owned by the people. Mystical abilities leaned the constitutional monarchy towards power monopoly in the form of politic, economy, social and others.

These mystical aspects also merged into the constitutional monarchy. The Malays believed that the kings possess certain mystical abilities better known as sovereignty. Thus, the kings possess sovereignty regardless whether he is a king or just a kin. The sovereignty becomes their power to rule over people, govern the country and being worshipped. This is enforced with the rituals and language used that is different from the commoners. (Mohd. Taib Osman 1983).

A disaster will take place should a commoner to challenge the authority of the king. Hang Tuah was willing to murder his best friend, Hang Jebat to defend the custom or belief that no Malay would rebel against their king. The prince of Malacca, Raja Muhammad was only exiled to Pahang despite being proven guilty in murdering Tun Besar. In Malay history, there is also a tale of Tun Biajid's actions when his wife was violated by the sultan of Malacca. He passively fought the sultan without even rebelling against his sultan. The sultan finally admitted his mistakes and bestowed his concubine, Tun Iram to Tun Biajad to redeem his wrong doings (A. Samad Ahmad 1979).

The Bendahara Paduka Raja played various roles during the Malacca Sultanate. Hang Tuah was given a death sentence for a groundless accusation. However, the Bendahara felt that the sentence should not be carried out without proper investigation. Nevertheless, Hang Tuah compelled with the sentence. This showed his utmost loyalty to the sultan's command. The Bendahara hid Hang Tuah. Hang Tuah's crime was finally dismissed when he brought Tun Teja to be wed to the sultan (Chandra Muzafar 1979). However, rebellion among the traditional Malays still existed despite the king bearing absolute obedience by his subjects. Hang Jebat's adultery with the royal concubine was an act of protest against the sultan for murdering Hang Tuah.

The pregnant wife of Megat Seri Rama craved for the jackfruit in the Sultan Mahmud's orchard. The orchard keeper compelled to her wish by

giving her a few pieces of the fruit. The sultan was angered and ordered that the stomach of Megat Seri Rama's wife to be split open and the baby to be taken out. Megat Seri Rama pledge vengeance. During his leave to perform his Friday prayer, Sultan Mahmud was assassinated by Megat Seri Rama. This event was known as Sultan Mahmud Mangkat Dijulang.

The wedding of Seri Teri Buana with Wan Sedari, the son of Demang Lebar Daun proved that not all royal decedents are monarchs (Abdul Rahman Ismail 1985). All of the wives of Seri Teri Buana who consisted of royal princesses experienced skin diseases once they have intercourse. However, this did not occur to Wan Sedari who was a descendent of commoners.

These events showed a silent protest to the king's authority through the use of literature. The Malays' perception in the kings' sovereignty still exists in the society nowadays. Numerous events involving the king's or their kin's misconducts were silenced. In fact, they were kept hidden and were put in the Seduction Act after the 13th may 1969 event. This syndrome continued until the Bukit Serene event where Gomez was assaulted by Johor sultan (Syed Husin Ali 1993). Political leaders and the public began to openly question and started to voice their opinions regarding the matter.

As a consequence of this openness, the Malays' perception towards the privilege of the kings has changed. An amendment in the 1993 constitution studied a few selected provisions involving the constitutional monarchy (Ghaffar Baba 1993). One of the amendments is to revoke the immunity of the Yang di-Pertuan Agong and the kings in legislation proceedings.

The Malays generally view the post of the constitutional monarchy as great and sacred. Thus the constitutional monarchy is crowned as the

centre of centrifugal (Afifudin Hj Omar 1990). This implies that all affairs pertaining to the people's everyday life is centralised to the king as a symbol of power and unity. Appointments in civil service are under the king's authority although the king's role in these matters is considered as a symbol only. This view is enforced more with the 'loyalty to king' part in the Rukunegara. This reflects that the people channel their utmost focus in pledging loyalty to the king. Any action done by the king is for the people's well-being.

The kings are the head of Islam in their respective states. This implies that the king must be of a sound mind, well-bred, scholar and fair. Hence, they will be the final reference for granting pardon or to relieve any sentence from the high court. Although the king receives counsel from legislation experts, the king's ruling to approve their appeal gives the impression that the perception and hopes of the Malay community are great and meaningful.

The Malay community hold various customs that were embedded in them for a long time. Titles like Bendahara, Laksamana and Orang Kaya hold different recognitions. This phenomena continued until today whereby the titles Tun, Tan Sri, Dato' and other awards are embedded with feudalism attributes. It generally becomes a dream to majority of the people. The different titles are portrayed as a feature that can increase their image and prestige in society. Thus, the constitutional monarchy can be viewed as a premier constitution and recognition centre in bestowing titles.

Struggle for economy resources become intense nowadays. The rise of economy elites as a result of the New Economy Policy lead to the struggle. Occasionally kings and their kin use their special privileges to occupy these economy opportunity. Thus, majority has started to view the kings and rulers as a stepping stone in obtaining economy and political power. Any form of request from the kings is usually approved without

any disputes. Hence, the view that the constitutional monarchy serves as a source in obtaining power is clear and accurate.

It can be concluded that the perception of the Malay community towards the constitutional monarchy has existed since a long time ago. The continuity of this perception from ancient history still embedded in the Malay community until today. However, the perception seems to experience change accordingly with the intellectual level of the people. Exaggerated perception has now been minimised. Feudal elements possessed by the kings are now disputed.

5.0: CONCLUSION

The existence of the constitutional monarchy in Malaysia is closely related and in line of the development of the Malay civilization. All communities in Malaysia accept the existence of the constitutional monarchy as a tradition in the Malaysian political system and are articulated clearly in the constitution. Thus, the kings need to scrape their perception that their subjects are only their slaves while the people need to have a rational view of the kings as set in the constitution. Hence, the constitutional monarchy will be valued more in the present and becomes more significant in the future.

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