

ANALYSIS OF DEMOCRATIC CONSTITUTIONAL MONARCHY: A CASE STUDY OF POLITICAL SYSTEM OF MALAYSIA

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Abstract

Malaysia is one of the successful developing countries. Malaysia was captured by Japanese in 1942 and after Japanese British holds the control of Malay state in 1945. Malaya got independence in 1957 and became the Malaysian Federation state. Sabah, Sarawak and Singapore joined the Malaysia in 1963 but left in 1965 due to the ethnicity problems. Sabah and Sarawak are situated in east Malaysia. Malaysia compresses on the thirteen states and three federal territories and these called Peninsula or west Malaysia. Malaysia has different ethnicity's peoples like Indian, Christians, Confucianism, Taoism and other Chinese. Malaysia has 13 states and 3 federal territories. Kuala Lumpur is the capital of Malaysia. Malaysia has Constitutional Monarchy System on the West Minister Model. The head of the state is king who is called Yang di-Pertuan Agong in Malaysia and head of government is Prime Minister. The sultan of the nine states choose the king for five years and they select the king on the rotating based system, by this system every state gets chance. In the parliamentary system of Malaysia real power is vested in cabinet and Prime Minister is the head of the cabinet. Chief Judges and Chief Justice of Malaysia are selected by Yang di-Pertuan Agong on the advice of Prime Minister. The king Yang di-Pertuan Agong has its cabinet and he selects the Yang di-Pertuan Negari for the term of three years.

Keywords: *Constitutional Monarchy, West Minister Model, Yang di-Pertuan Agong, Yang di-Mentari Besar*

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Introduction

The Malaysian federation state has the system of parliamentary based on Constitutional Monarchy system which is adopted on the Westminster Model. In this system, the head of the state is a Monarch who is called Yang di-Pertuan Agong and head of the government is Prime Minister. This article is written about the Constitutional Monarchy system of Malaysia, and discussed the whole structure and functions of Monarch as the head of the state. The king, Yang di-Pertuan Agong is selected by the sultans of the nine Malaysian states for the term of five years. The system of rotating is adopted in the selection of the king. Monarch, Yang di-Pertuan Agong has the whole structure of its organizing body like Prime Minister on the state level. He has also the cabinet and also the Chief Minister who is called Menteri Besar. The head of the cabinet is the sultan; the states in which Monarchy system is existed that are led by the Menteri Besar and those states that are without the Monarchy system running by Chief Minister. King chooses the members of his cabinet for the tenure of three years. For the selection of the Yang di-Pertuan Agong made a council of rulers which is consisted on the sultans of every state. It is clearly mentioned in the constitution that appointment of the judges and other posts but on the recommendation of the Prime Minister.

Conceptual Analysis

Monarchy is derived from the Latin word 'Monarchial' which has meaning of the rule of an individual in any state. The constitution of Monarchy is headed by an autonomous person who has ability to rule in the perspective of well-defined constitution. According to Bodin; "Monarch is a sovereign that respect his citizen's property right and freedom. On the other hand, people must obey Monarch's laws for legality of Monarchy. Bodin describes the parliament as advisement body that doesn't decision authority between Monarchy and people. Powers and authorities may be centralized or decentralized and is limited at Monarchy. If power of legislation, executive and

jurisdiction centralized, this system may be called absolute Monarchy” (Fuat, 2013).

Monarchy is a government system in which one sovereign rules the whole state named king, sultan, imperial, prince. The legislation and executive major powers remains in the hands of Monarch. Monarchy has basically of two types, the absolute monarchy and parliamentary monarchy. In the absolute monarchy, all the powers of the state are with King, Sultan or Imperial, while in the other system of monarchy the constitutional monarchy, the powers are distributed and restricted.

“The Sovereignty can be democratic or not democratic as its part of Constitutional Monarchy is called government system. The people’s select to the members of assembly and senate also contain on Constitutional Monarchy and it’s implemented between the dates of 1877-1878 and 1908-1918 in Ottoman Empire. Now it’s also being implemented by European Countries such as Denmark, Spain and Monaco, Sweden notably Japanese included many other countries of Asia” (Fuat, 2013).

Research Methodology.

This research paper is based upon the data collected from books, journals and research reports. The subject matter of this paper is concerned with the practical aspects of research. This research is designed to be conducted with the qualitative approach to data collection and analysis. Therefore, with the help of literature attempt has been made giving personal touches for reaching a solid conclusion.

Constitutional Monarchy of Malaysia

According to the concept of a political entity, the constitution of Malaysia reflects the information about the meaning of monarch is basically the Head of state, till death and is specifically a unique

person from the other members of the state. According to the world view, there are 44 nations where monarchy system is part of their constitutions and the sovereign of the states are monarchs or kings. In which 16 are states who refers to Commonwealth territory and agrees to the Queen Elizabeth II to be the part of their sovereign of the state. The selection of the Yang di- Pertuan Agong is done by the Malay Ruler's Council in which a secret ballot system is adopted. The 9 states of the Malaysia have the right to give their vote and the system follows a sequence line by states. In 1957, first this idea of an elected monarchy was presented by the first Prime Minister, namely Tunku Abdul Rahman. The image of first King exaggerates on the currency a note that was from Negeri Sembilan state. The Malaysian federation is known as a federal legitimate Monarchy. The present King is Abdul Halim Mu'adzam Shah is the current king, who was the successor of Mizan Zainal Abidin, a special meeting was held and in this meeting it was defined that 83 years old present king Abdul Halim Mu'adzam Shah will be again the fourteenth king of Malaysian state and this incident appeared first time in the history of Malaysia that a Sultan is selected King continuously for two times. The king Sultan Abdul Halim Mu'adzam Shah has also served as king of Malaysia from 1970 to 1975 (Zameri, 2010).

The yang di-pertuan Agong (federal king) and the State Sultans are required by federal and state Constitutions to act on the advice of the elected government in the whole range of their constitutional functions except in a small area where personal discretion has been conferred. Even in this area, constitutional conventions limit royal discretion. In the overall scheme of the Constitution, "The monarchy is required to region, not to rule" (Faruqi, 2011).

Yang di-Pertuan Agong/king

The Raja of the Malaysian State Raja Nazrin Shah in his speech said about the Yang di Pertuan the New Constitutional Monarchy nevertheless represented a major innovation. Based it is true on the

British model; it nevertheless had its own indigenous identity. The British legacy at Independence was a sound institutional framework; it might have seemed difficult to improve upon the founding fathers had to accommodate the rights and expectations of nine Rulers, the wishes of the Rakyat and the political constituency represented at Federal level by the Prime Minister and at State level by the Chief Ministers Agong as “Malaya in the event, when it had the constitutional choice, not only retained its traditional Sultanates at State level but introduced another layer of monarchy into the Federal system, through an overall, supreme Ruler, thereby elevating the institution. Part of my theme is that monarchy in our country is far from stagnant – revitalizing itself in tune with the dynamic of the society in which we live and serve... helping to fuse these disparate elements was the common national vision and goal, an essential unity symbolized by an overall Monarch or Supreme Ruler to whom all Malaysians owed their allegiance. This entailed a newly created position – the Yang di-Pertuan Agong or overall Ruler – the name literally means “He who is supreme amongst us” The Yang di-Pertuan Agong is chosen by his brother Rulers, in the Conference of Rulers, and in secret conclave, rather like electing the pope” (Shah, 2004).

The Malaysian king who is called Yang di-Pertuan Agong is the head of state in Malaysia. The head of the cabinet is Prime Minister and he has the real executive power. The king has to follow the advice of parliament and the Prime Minister of the country. However; in his authorities these are mentioned, the selection of the Prime Minister; organized the sessions and meeting of the conference of rulers and he is the commander of the ruler’s conference, he has the privileges of fix the positions of sultans and he can dismiss the Parliament (even against the advice of the Prime Minister) but are all on the discretion of Prime Minister. The forty-two members of the senators are select by the Yang Di-Pertuan Agong and this right is given to him by the constitution and t is also mentioned in constitution that all these task

of Yang di-Pertuan Agong will be on the will of Prime Minister (East, 2014).

Any decision before making the law, all acts after the passing from both houses of the parliament Dewan Negara and Dewan Rakyat, these acts sent to the Yang di-Pertuan Agong for the approval. He may consider the head of the Judicial Authority, the power of appointing the judges, chief justice and other posts are selected by the Yang di-Pertuan Agong on the recommendation of the Prime Minister. He considered the highest commander of armed forces in the state and also considered the head of Islamic vision and sharia court is established for the solving of the Islamic problems. The Yang Di-Pertuan Agong has the power to appoint the judges of Sharia court. Being the highest integrity The Yang Di-Pertuan Agong also is given the freedom of consulting awards, orders of courtliness and other respects (East, 2014).

Selection of the Yang di-pertuan Agong

The King Yang Di- Pertuan Agongis elected for the 5-year term from the 9 of the 13 Malaysian States rulers that rulers are called Sultan. The method of selection of the King was adopted on the rotating based system, by this method every Sultan of the Nine states can be avail the chance of becoming the Yang di-Pertuan Agong on his turn on the cycle. For the selection of head of the state there is no predictable system in Malaysia, he can be choosing by the conference rulers from the seven main states select one of their members for the place, and state is governed by him for the time of 5 years. He is a statutory ruler but he has not much influence. The real authority is conferred to Prime Minister and most decisions are made by the elected government of Malaysia (Harris, 2009).

The rulers held the meeting with other rulers for the selection of the new ruler when the position of Yang di-pertuan Agong is empty. Every Ruler shows his interest for empty seat and tries to get the seat or offer himself for to come advancing in the election. In the selection,

secret ballot based system is adopted for the recruit of the ruler and each ruler cast his vote one by one, first with the rulers following in importance after the one who has expired or earlier Yang di-pertuan Agong. If the candidate got more than 5 votes than he selected as the king Yang di-Pertuan of the federal state and the deputy of the King also choose in the same way when King gives his consent than he can be select at the seat of the Deputy.

The selection of the deputy depends upon the will of the King, King willingly gives up accountabilities on his election and monarchs of his own state may take his place or he may select a counselor. However, he considers the head of Muslim belief in his specific state. If the seat becoming empty thereafter, new sovereign may be select by the rulers for administration in contract with the change to the constitution of his nation. The king Yang di-Pertuan Agong select the Prime Minister depends upon his will. He has the authority to decline or to dissolve the parliament even against the consent of the Prime Minister but such not happened even in the history, king has to act upon the advice of the Prime Minister. The King considers the sign of honor and faithfulness. The Yang di-Pertuan Agong has authority to, "reprieves, grant pardons and respites in respect of all offences which have been obligated by court martial and all illegal performances that are committed in the federal territories of Labuan and Kuala Lumpur and he also managed to implement a similar right in Melaka, Pulau Pinang, Sarawak, Sabah and the federal territories of Kuala Lumpur and Labuan as head of religious laws in these states" (IBP USA, 2009).

According to the Constitution's schedule number five the Conference of Rulers has the power to terminate the Yang di-Pertuan Agong but is compulsory for the termination that five of the thirteen state ruler's votes are against the king than he can be dismissed. These all rights are in the hands of this ruler's conference, other government institutions cannot be select or dismissed to Yang di-Pertuan Agong. The institution of Monarchies cannot be discharged at all in United Kingdom. Whilein India the president can be faced by both parties of

the parliament. The king Yang di-Pertuan Agong has the authority to establish a royal vice, he holds special and complete roles in assigning a advisor or the royal vice envoy as a supernumerary should the substitute has passed away or incapable to do his responsibilities. According to the article 34(8) Constitutions 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). Rough out 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" (Eur, 2003).

Majlis Raja-Raja

The Conference of Rulers that is also called Majlis Raja-Raja and The Sultans Congress. This Conference of Rulers is consisting on the 13 states of Malaysia and organization body of this Majlis Raja-Rajawas created in 1948 which consist of thirteen sultans of the Malaysian state. The Conference of Rulers was inaugurated according to the constitution of Malaysian federation and members of this body are 13 state rulers and the Yang di-Pertuan who is the king and also the head of this Majlis Raja-Raja. The main function of this conference is the selection of the Yang di-pertuan Agong and his Deputy Yang di-pertuan Negari but in real Yang di-Pertuan Negari has no power, he just holds the position of Yang di-Pertuan Agong if he is ill or not present. The king also asked the Conference about the selection of the Judges, the Attorney general, commission of election and appointment of the public services commission but this all process will be according to the Prime Minister will. The main one of the power of Conferences of Rulers is the selection of Yang Di-Pertuan

Agong and selection of his Deputy, more council has the power of accept or reject the restoration of sacred decrees, selection of the justice of Supreme Court, laws improvement, right of the opinion for state plans and crimes are pardon or release the crime, all these mentioned in constitution's 42 article. Malaysia has a Constitutional Monarchy system with parliamentary form of government, the matters of communal rule or the distinct rights are affected by the thirty-three matters of Malaysia that were rendered to the sultans require consultation with the Rulers Conference. Prime Minister, Mentari Besar of all Malaysian States participated in the meeting for the selection of the Yang di-Pertuan Agong and his deputy. The Prime Minister, Mentari Besar and Chief Minister joined the completely summits of the Rulers Conference (IBP, 2015).

Functions of Monarchy

The Malaysian Legislative Power is vested in Parliament which is consisted on The King Yang Di-Pertuan Agong, Senate that is called The Dewan Negara and Lower House (The Dewan Rakyat). Dewan Negara is mixture of both elected and appointed participants. Two members of every state are select as the members of the Upper House and one each participant of Labuan and Putrajaya and 2 members from capital city Kuala Lumpur and Yang Di-Pertuan Agong appointed the 42 members of the Senate. Though 26 members out of the 70 are elected and 44 are the nominated by the king. It is essential for the candidate to be above 30 years, he must be permanent member of Malaysian State and his criminal record should be clear as he has not done any crime or not indulge any crime. The members of the Senate can get its membership for two times but not more than two terms.

According to the constitution of Malaysia Senators have to be 30 years and older and remain in their office for a three-year term, after which another senator will be appointed to serve the Senate. After the completion of their 1st term the senators cannot get continuously their

seat as senator for second time, there should be gap between first and second term. If the senator resigned, reason of his disease or in case of his death than another new senator can hold his position for the escaped time period until the expiration of the tenure. The Lower House that is called Dewan Rakyat comprises of two hundred and twenty-two members that are chosen by the votes of the peoples of the country, the participants of the House should be more than twenty-one years of the age. The tenure of the House of Representatives is 5 years and members and general election of the country held every five years. The political party that got more votes than other parties succeeded to make his government by his majority votes. The two hundred and nine members of the total members are selected by thirteen states and other thirteen members are selected among the three states of the country that are namely capital city Kuala Lumpur, other are Labuan and Putrajaya state. Eleven members are electing by the Kuala Lumpur as for that Lubuan and Putrajaya elect one for each. The function of the Dewan Negara establishes the laws for the state. First the bill is usually sent in Lower House after the debate and acceptance of this House than forward the bill to the Senate. The Dewan Negare provides and acts as a forum for his members over the discussion and opinions of the policies and rules of the government that he made (Faut, 2013).

The Monarch is considered the sign of honors and ritual liabilities, the constitution of the Malaysian granted the Monarch as a complete power. According to the article of 66 “all bills that are passed by parliament need royal approval and acceptance before they can be implemented as laws. Further, there are certain ‘firmly establish’ articles of the constitution, which needs the Agong’s approval. According to the article of 150 the Agong has an optional power for the appointment of a Prime Minister, in the refusal of consent to a request for the termination of parliament, and has a Non-discretionary power for the declaration of a state of emergency. For these Political decisions, the constitution makes any decision upon

the advice of the Cabinet” (Mauzy, 2002).

In the Malaysian state the structure of the federal government is very sound and the role of the king Yang di-Pertuan Agong is considered very important. He is considered as Islamic Majest and sign of honor. It is stated in the constitution of the state that in the 3 federal territories he is considered as head of Islam and also in that states in which there is no Monarch or sovereign. He has the honor of being the commander-in-chief in the armed forces of Malaysia. By the constitution he has the authority of select the Deputy Prime Minister, Prime Minister, Ministers of the Cabinet and also secretary of the Cabinet, though the largest party of the state choose the Prime Minister or alliance in parliament. The Prime Minister allotted the other posts and after that forward to the King for his improvement but in real King acts upon the advice of the Yang di-Pertuan Agong. This also has the power of Yang di-pertuan Agong to select the Chief Justice and Chief Judges of Malaysian state on the will of Prime Minister. He also appoints the Sarawak and Sabah, many other commissions and 44 members of the Dewan Negara that is Upper House of Parliament (Group., 2012).

The Malaysian Monarchy considered exclusive in that it is an elected Monarchy. The king chooses the members of the Cabinet and Parliament Cabinet Ministers by the king on the recommendation of the Prime Minister. Sultan of the state is the head of the Monarchy Cabinet and administration run by Chief (Mayor). The Municipal Corporation CEO accomplished federal territory of putrajaya and federal territory of Labuan. The states that have Monarch that are governed by Menteri Besar and those states that is without Monarchy is governing by Chief Minister. Menteri Besar and Chief Minister lead state government and executive council also. Mentari Besar also articulates as Chief Minister in English language (Witham, 1998).

According to Constitution, “Executive Authority refers to the power to govern the country. The Yang Di-Pertuan Agong is the head of the

Executive Authority. However, he acts on the advice of the Prime Minister who heads the Cabinet. Hence, the Prime Minister is the Chief Executive and the head of the Government. The Yang Di-Pertuan Agong appoints a council of Ministers to form the Cabinet (Jemaah Menteri) to advise him on the execution of his functions as the head of the Executive Authority". The appointment of them based on the advice of the Prime Minister. The Cabinet consists of the Prime Minister who is called in Malaysia Perdana Menteri. There in Malaysia is found of Federal Parliamentary type of Democracy with A Constitutional Monarchy, the associates must be supporters of either the Senate or Lower House. The Cabinets considered the main policy-making body in the country, the member's meets often to articulate the policies of the government. Every Minister of the Cabinet has a dissimilar portfolio and is individually or collectively accountable to Parliament for the policies or decisions that are made by the Cabinet. The head of the government is Prime Minister (Perdana Menteri) and appointed by the Yang Di-Pertuan Agong from the lower House leading party who has got majority seats in the House of Representatives. It is essential for the Prime Minister to fulfill the requirements that are mentioned in Constitution for becoming the Prime Minister that restrictions are to be by birth citizen of the Malaysian state and it is mandatory for the Prime Minister to get a vote of confidence to keep control on House of Representatives. Every Minister has a deputy in Malaysia and the Yang di-Pertuan Agong appointed them. The function of the deputies is to assist the Ministers with office and each Minister also has a staff who named 'Parliament Secretary'. These Secretaries of the parliament has to run the daily routine of Ministry and Parliamentary Secretaries are selected for each Ministry among the other members of Parliament on the advice of Prime Minister. Earlier to 1981, the king, Yang di-Pertuan Agong in Malaysia has the power to declare emergency ordinances until both Houses of Parliament are sitting by the act of constitution amendment 1981. The power of emergency legislative by the Yang di-Pertuan Agong was given active outcome at any time

except when both Houses of Parliament are sitting concurrently. The meaning of the change the emergency executive power of ordinance creating recharged every time parliament was recessed. The power of the Yang di-Pertuan Agong is developed by the emergency ordinance in many cases of derogation of citizens, privileges, was the matter of trial in many of cases. In order to better understand the range of issues involved. It is helpful to summarize the sequence of events giving rise to the court proceedings (Omar, 1996).

The head of the Cabinet is sultan and all Ministers are accountable to him. The Sultan Hassanal Bolkiah who governed from 1984 to 2004, he is not just on the position of Prime Minister but also the Minister of defense and Minister of Finance. The Cabinet is leading by the other members of the Royal family plus the inheritor to the sovereignty, Prime Minister Al-Muhtadee, who is older Minister without portfolio, and the brother of the sultan, Prince Mohammad who has the Ministry of Foreigner Affairs. The Sultan is counseled by numerous chosen assemblies, which recommends on legitimate substances, and the spiritual council (Cavendish, 2007).

Conclusion

The Constitutional Monarchy system plays an important role in the Political system of Malaysia, whether it may be at federal or state level. It is established on the West Minister Model, It is a continuity to endorse political and presiding constancy. Malaysia has constitutional Monarchy system on the base of Parliamentary Democracy. The aims of this research paper are to study the levels of the Monarchy System and its role in the system of Malaysian Political system as defined in the constitution and try to define the relation between government and Monarchy system. After the study, it can be abridged that the Malaysian Constitution gives distinct rights to the Monarchy System he has not full authority of any decision because decision is made by the advice of Prime Minister. The Devotion, Loyalty to the King, turns out to be a ritual and tradition to the Malay

community. All societies in Malaysia considers the king sign of honor and accept the presence of constitutional Monarchy. The system of the Malaysia is running successfully than other developing countries with the system of constitutional monarchy, but it is more need to improve their system. The Monarch has the right of the selection of the different position but on the advice of Prime Minister, he performs just ceremonial duties. The selection of the king, Yang di-Pertuan Agong should by the votes of the people's in spite of nine sultan's votes. In simple words it can reign but not rule.

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