



BRILL

Symbolic Communication in Malaysian Politics — The Case of the Sultanate

Author(s): Vincent Lowe

Source: *Southeast Asian Journal of Social Science*, Vol. 10, No. 2 (1982), pp. 71-89

Published by: [Brill](#)

Stable URL: <http://www.jstor.org/stable/24490812>

Accessed: 25-02-2016 15:29 UTC

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://www.jstor.org/page/info/about/policies/terms.jsp>

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.



Brill is collaborating with JSTOR to digitize, preserve and extend access to *Southeast Asian Journal of Social Science*.

<http://www.jstor.org>

Symbolic Communication in Malaysian Politics — The Case of the Sultanate

Vincent Lowe

Universiti Sains Malaysia

This paper deals with the Sultanate in Malaysia. It provides an overview of the present position of the institution in the country, some description of the constitutional monarchy system and how it functions, a brief account of the history and origins of the Sultanate, and a discussion of the roles, functions, and importance of the institution.

The Sultans: An Overview

There are nine Sultans in Malaysia — traditional Malay rulers, each the constitutional head of his state. The remaining four non-Sultanate states — the former Straits Settlement of Penang and Malacca and the two North Borneo states of Sabah and Sarawak — have appointed governors. A composite of their career experience shows one to have been a lawyer-career diplomat, while others have served in the Army and government departments in honorary as well as substantive positions. Nearly all of them have had administrative experience of some sort, and the majority have spent various periods attending schools and colleges outside the country.

Succession to the Sultanate is by primogeniture, although there have been exceptions to this rule. In two states, this rule is modified. In Negri Sembilan, the ruler, called the *Yang di Pertuan Besar* (He who is Great) instead of "Sultan",¹ is elected by the four major chiefs or *Undangs* (law-givers). The candidates, however, must be members of one major household. In Perak, the throne rotates among three royal families, a formula first imposed by the British to settle a succession dispute. Common to all the states, additional criteria for royal succession are:

- (1) the degree of royalty of the heir. Those born of more royal mothers are rated more eligible;
- (2) the wishes of the previous Sultan can be decisive. Sultans have been known to disqualify their eldest sons by stripping them of titles, and banishing them from the state, thereby removing them from contention as the heir;
- (3) the judgement of the Council of Succession in each state, which in some states, has the power to confirm or reject the heir; and
- (4) in some states, the heir has to profess the religion of the appropriate Muslim sect.

Although they are constitutional monarchs, the Sultans retain their traditional

prerogatives and are legally endowed with all the attributes of a sovereign. The State Constitutions stipulate, for example, that the Sovereign can do no wrong, a reference to their immunity from legal action in any form. In addition to key discretionary powers to modify and affect the political processes, the Sultans retain exclusive control over policy areas such as Islam and Malay customs, and the Sultanate substructure, the system of chieftainships, and the power to confer honours and awards and to grant pardons.

By far the most remarkable feature of the Sultanate is the fact that it has survived the vicissitudes of its own history and is now very much a growing and salient institution. In India, the Maharajas were dethroned, but in Malaysia the Sultans presided over the transition to independence of the country from a position of strength. In Indonesia, the Sultans sided with the Dutch and were swept aside by the nationalist tide, while the Malaysian Sultans helped create and then rode the crest of the same tide — with the result that the present political framework is legitimized by and gives pride of place to a reinforced and resurgent Malay monarchy.

The Sultanate has survived in a form and structure which is unique and quite unlike other constitutional monarchies. The Malaysian system of sovereignty has features quite different from those usually assigned to constitutional monarchs in either current democratic theory or present-day democratic practices. The locus of sovereignty resides not in one but nine rulers. Sovereignty is therefore technically divisible, but it is unified on a federal level by two institutions, both of which are equally unique. One is the federal kingship. The nine hereditary Sultans elect one ruler from among themselves to serve as the paramount King for five-year terms. Eligibility is decided by seniority based on the respective dates of accession to their thrones. The King exercises authority delegated to him by all the other rulers. Formal consultation takes place among all the rulers on a frequent basis — four times a year — in the Conference of Rulers, the only institution empowered to remove the King from office. When it discusses their prerogatives or exclusive policy domains, no one but the nine rulers can be present. When the Conference discusses civil policy, they are “advised” by the prime minister, and all the states’ chief ministers or *Mentri Besar*. On these occasions, the governors of the non-Sultanate states and their chief ministers may attend.

The Conference of Rulers is the formal meeting at the highest level of the chief political representatives of the ruling parties and the ruler. It has no legislative, executive, or enforcement powers of any kind. It may, however, choose to discuss any policy. The Conference may veto legislation which affects the rulers’ sovereignty or which impinges on their special responsibility for safeguarding Malay special rights and privileges. With the preservation of the Sultanate substructure of chieftains right down to the village *penghulu* or headman level, and of palace officials drawn from titular hierarchies, paralleling those of the formal political structure at each level, the Conference becomes the apex of an informal influence network where sovereignty is not only ubiquitous but interwoven into the political fabric of the country at all levels.

The power of the rulers is blended into the requirements of a popular democracy. Although their roles are heavily circumscribed by law and the obligation

to follow the advice of the popularly elected leadership, the rulers are assigned functions which sustain and fill those periods in the democratic life of the country when the popular will is not manifest or has to be ignored. These include the prerogative of the sovereign to choose someone from the most popular party to form a government and to become a prime minister, and whenever necessary to suspend the constitution of the country, for example, during periods of emergency.

In post-independence Malaysia, the Sultanate is given functional relevance through the dominant political ideology of UMNO's special rights programme to redress the imbalance between Malays and non-Malays. As the symbols of the Malay insistence on primacy over the immigrant races, the Chinese and the Indians, the Sultans themselves become the first premise for the programme. UMNO, as the only political party publicly committed to defend the rulers and to safeguard their position and dignity, and as the premier Malay party, thus binds the rulers to itself in a symbiotic relationship. In the constitution, the rulers are the guardians of the entrenchment and the implementation of the special rights programme, while they are also given responsibility to see that this does not impinge on the legitimate rights of the other communities. They also ensure to the Malays the presence of a sovereignty which is exclusively Malay and will always be so. Also ensured is the distinctiveness of the Malays as a racial community, the principle that their culture will remain the fixed point of any assimilation process, and that the country's character will always be Malay.

The psychological and cultural attachment the Malays have for their rulers make the Sultanate a symbol of legitimacy potent for its ability:

- (1) to bring the Malays into electoral politics in a multi-racial and often polarized society, by establishing themselves as a fixed point in the system on which Malays can safely rely;
- (2) to keep electoral competition and indeed competition for power within the bounds of constitutionalism, law and order, and orderly succession; and
- (3) to preserve the fabric of Malay society and ease its transition into the modern era.

The presence of the large Chinese population contributes to a Malay fear of being overwhelmed, thus increasing the need for and dependence on the key role of the rulership. Paradoxically, however, the rulers also serve the critical interests of the Chinese. The system does impose certain restrictions on the status of non-Malays as citizens. But the more the rulers are strengthened in their position, by their disposition, predilection and the conditions for their own survival, the greater will be the emphasis on the values of legitimacy, constitutionalism, and the rule of law and order — the very same conditions which tend to ensure to the Chinese a favourable investment climate and a minimum of political interference with their lives.

The roles and functions of the Sultanate in present-day Malaysia were arrived at through a confluence of events, personalities, and circumstances including in good measure the political acumen of the nine Sultans themselves. Their capacity to survive is not new, and one reason for their present political utility is their survival over the centuries. For this reason, a brief review of the history and origins of the Sultanate is necessary to serve as a backdrop of our main theses.

The Sultanate: Its History and Origins

There is lore that locates Malay kingdoms on the peninsula long before any recorded history. There is evidence that suggests that these were settlements which were outposts or tributary states of various Hindu empires which existed from the 7th century (Srivijaya) to the 14th century (Majapahit). The beginnings of an indigenous political entity on the peninsula are usually identified with the founding of Malacca in about the year 1400. Started by a Hindu prince from Temasek (old Singapore), the dynasty held sway in Malacca for more than a century during which it presided over a prosperous trading post. Its suzerainty was recognized by several tributary states which occupied almost the entire peninsula.

The Malacca dynasty survived a long period of flexible and changing alliances through a constant search for allies to balance one power against another. To this end, tributes were paid and gifts and embassies exchanged with China in the early 1400s to offset the influence of Siam. Wars were waged with Siam. It conquered the states of Pahang, Kampar, and Indragiri.

But whatever security it gained in its earlier years was later frittered away under the oppressive regime of a ruler who was in constant conflict with his own chief minister. The resulting neutrality of its sullen population to foreign traders made Malacca easy prey for the Portuguese who took over Malacca and its royal house in 1511.

The refugee royal house established itself in Johore, assuming the overlordship of the peninsular states including Muar, Rembau, Sungei Ujong, Klang, Manjong Bruas, and Trengganu, amongst others. No sooner was it established, than it was beset by the same problems which afflicted Malacca — internal violence as well as external threats. It was caught in a three-cornered fight with Aceh and Portuguese Malacca alternately allying itself with one against the other. None of these wars was decisive. The three powers involved were able to produce no more than an uneasy equilibrium. In the 1600s a new colonial power, the Dutch, arrived and in turn became an ally and then an enemy of Johore, and finally displaced the Portuguese in Malacca in 1641. The preference of the Dutch for trading rather than fighting allowed Aceh to concentrate its full force against Johore, which it conquered together with the peninsular states of Pahang, Kedah, and Perak. The Acehese kidnapped the entire royal family and sent a younger son of the Sultan to resuscitate the state in order to attack the Dutch. The Kingdom was again sacked for not complying with its mission and led an uneasy existence until it was next infiltrated by the increasingly superior Bugis. This time there was no overthrow of the royal family, the Bugis preferring to infiltrate by occupying positions of real power such as that of Underking. They colonized Selangor, however, and secured the throne for themselves. In each case they intermarried and became assimilated into the local Malay culture.

Until the British arrived in 1874, the Malay kingdoms were usually small territories located in riverine valleys. The loosely populated hinterland, the personal nature of the rulership, and the large number of royal princes from the polygamous royal houses, provided frequent impetus to start new kingdoms. Several other factors contributed. The population was mobile and shifted constantly, acting as a

check on oppressive rule while constantly seeking the protection of a stronger and less autocratic ruler. The prevalence of a Malay practice, *hulur*, by which conquering chiefs could enslave those without chiefs or families, made it necessary to find patrons in strong chiefs. There was also the impulse of younger princes to *menchari rezeki* or to search out one's fate.

The model for each new kingdom was Malacca, the previous seat of Malay royalty. Each royal house retraced its *salasilah* or genealogy, to the early kingdom. Each new kingdom claimed to be preserving the Malaccan form of government even if it did so more in form than in substance. Finally the pathos of a lost kingdom surviving through folklore and romantic court histories ensured the continuance of a tradition in which cultural values thought to be crucial to Malay greatness of that day and age was successfully transmitted to each succeeding generation of Malays. These have to do with the behavioural norms of subject-ruler relationships and with details of royal court practices, palace language, and taboos, which came to be adopted in all these states.

The fashioning of these kingdoms after Malacca justified the continued tolerance and practice of syncretist beliefs. It nourished a determination to preserve Malayness and with it a capacity to absorb other races and cultures without losing the Malay identity. It also endowed these states with a capacity to survive crippling succession disputes. This led to the intrusion of foreign interests which supported those rulers who would accept foreign control, but it allowed the *de jure* rulers to continue as symbols of the cohesion and unity of the separate states.

British colonization from 1874 to 1957 had decisive effects on the Malay Sultanates. British penetration ended the use of the hinterland as a way of escape. The extension of the British administrative system put an end to the practice of revenue farming among the Malay chieftains, depriving them of their economic power. The British were also quick to realize that their own interests lay in strengthening the authority of the Sultans which would then allow them to work through the existing authority structure. Rebellions were quelled and defiance was punished and compliance rewarded. Thus, to give force to their treaties, they consented to local rulers assuming the title of "Maharaja", later elevated to "Sultan" when the state consented to British protection.

Seven decades of British rule prepared the Sultans for the politics of a democracy and parliamentary government. Key aspects of the Sultanate's roles and functions can be traced back to the needs of British indirect rule. In return for providing legitimacy for British colonial power, the Sultans bargained for and obtained exclusive control over their people's religion and customs, something they have retained to this day. Because all actual power was in fact in the hands of the British residents or advisers, the Sultans had to exercise their influence indirectly, as they continue to do now not over British representatives but their own popularly elected officials. They were able to make good use of legal fictions, like the so-called equal treaties with the British sovereign. In pursuit of their own ends the Sultans did not hesitate to appeal to London and in some cases to seek audience with the British King, a right given by the equal treaty relationship. The real irony is that it was this schooling and understanding of British politics and administrative structure and

practice that enabled the rulers to defeat the British plan for a Malayan Union.² The Union would have undercut the fiction the British were responsible for maintaining, that the Sultans were sovereign monarchs — and would have reduced them to mere community and racial chiefs. This struggle against the Malayan Union resulted in the re-establishment of the sovereign roles of the Sultans. This struggle also prepared the institution to have a central role in independence negotiations. In the country's subsequent effects to gain independence, the contributions of the rulers can be considered decisive from the point of view of providing the impetus for the birth of Malay nationalism. They provided a simple and emotional rallying call for mobilization of the Malays. Their participation in mass activities gave these organizations and movements legitimacy and respectability in Malay minds.

In this era too, UMNO, the first Malay political party, and the rulers formed a symbiotic relationship. UMNO was the only party which pledged to support the rulers, and in turn, was the only party which had the tacit as well as explicit support of the rulers. UMNO also had campaigned on a platform of special rights for the Malays and had been able to gain acceptance from its other alliance and non-Malay component parties for its policies. If the rulers were given special responsibility for special rights, then the allegiance of the Malay electorate — if one assumes they can be treated as a politically homogeneous group — would be to both the rulers as well as UMNO. This would create a tri-polar nexus of Malay interests which would keep the Malay community united by an "ideology" of special rights.

These factors determined a constitutional monarchy for the independent state giving pride of place to a Sultanate which also enjoyed some credit for the nationalist struggle. Thus the institution, itself legitimized by its contributions of the nationalist struggle, found itself in its role as the chief symbol of legitimacy for the newly emerging state. These, as well as other roles and how they have operated is the subject of the following section.

Roles and Functions of the Sultanate at the Federal Level

It is possible for us to select for discussion several roles of the constitutional monarchy at the federal level. Within the discussion of each of these roles we shall try to analyse ways in which the practices affect politics.

One of these roles is the widespread use of the King as a symbol of legitimation. As in most monarchies, the King presides at a great many ceremonies and events. Some of these are ritualistic functions which require the presence of the King as the Head of State. Examples of these events are the commissioning and the reception of ambassadors and high commissioners to and from the country and state social functions such as dinners for visiting dignitaries. Then there are the constitution-mandated functions such as the ceremonial opening of Parliament and the address from the throne when the King announces the programme of the government of the day and opens it for debate in the legislature.

One feature of all ceremonies and functions is the revival of all the pomp and circumstance and practices of ancient Malay courts. This includes the fashioning and use of symbols and instruments of office adapted from ancient regalia; the

revival of ancient court titles; the use of *surat tauliah* or letters of appointment to signify royal authority in letters of appointment; and even the use of *shamans* to divine propitious weather for ceremonies. There is also the adoption of *adat rajaraja* (customs of royalty) in behaviour. The form and style of such ceremonies with the top political leadership paying obeisance (*mengadap*) to the King in full view of a national television audience presents a showcase of political behaviour which at once also visually emphasizes the Malay character of the state presented in all its traditional glory. Also emphasized is the continuity in the legitimacy of the government which treats as an unwelcome interruption the intrusion of the colonial powers and their open immigration policy.

The following efforts are made to extend the Malay character of the State to other spheres:

(1) *To shape the social sphere of political life through the granting of awards using titles culled from historical Malay kingdoms and using titles as a way of determining protocol order:* This procedure provides a way of reconciling mobility in the social sphere with achievement in other spheres.

(2) *To bring non-Malays into Malay ceremonial life:* Increasingly, non-Malay cabinet ministers are appointed ministers-in-attendance to the monarch on ceremonial occasions. With the same objective in mind, the monarch is made the object of loyalty pledges by ex-dissident politicians when they publicly recant their political sins. Thus, the confessions of the two Malay cabinet ministers and a prominent journalist detailed for Communist activities broadcast over the national television network ended with each of them making a loyalty pledge to the King.³ Lim Kit Siang, leader of the Democratic Action Party, an offshoot of the Singapore People's Action Party, was found guilty of offences against the election ordinance. This would have automatically debarred him from taking the seat in the federal legislature to which he had been elected, but he was granted a pardon by the King, for which he had to apply, thereby accepting the overall position of the monarch.

(3) *To use the institution of the kingship to distinguish state events from political events so that there can be non-partisan involvement:* The presence of the King makes the event non-political and non-controversial and at the same time allows Malay cultural values to be extended to such occasions. Such events include the "showing of the flag" visits when each King, during his tenure visits every state of the Federation. These visits have other aims. Symbolically, they instil a sense of belonging and loyalty to counteract centrifugal tendencies especially among different outlying states. Such visits are also seen as occasions when State Sultans can acknowledge the paramountcy of the King and thereby help transfer each one's subjects' loyalty to the national loyalty for the kingship. Such events include the traditional King's speech from the throne when he opens each new session of Parliament. This function of the King reinforces the legitimacy of the government and at the same time symbolizes the commitment to an open government, which the Opposition could hardly fault. Such functions of the King make it doubly difficult not to accept the cultural implications represented by the kingship in other state functions, where participation represents tacit acceptance of the Malay cultural complexion of the society.

(4) *To use the King's authority to build up, define, and protect an overarching structure or edifice of institutions which would not be subject to the vagaries and compromise of political action:* This is done through the establishment of commissions which are responsible for the recruitment, promotion, and general service conditions for the public services, the judicial and legal service, the Police and Armed Forces. As far as possible, persons who are active politicians are not appointed to these commissions. The exceptions are the Armed Forces Council and the Police Service Commission where the chairman is the responsible minister. Such non-partisan commissions help to isolate such appointments from political currents. Such procedures insist that consideration be given to the advice of the prime minister, but such advice is not mandatory since the King is at liberty to seek advice from other sources. This means that the prime minister is only one of several sources of advice regarding these appointments. The duly constituted commissions are:

- (1) The Judicial and Legal Service Commissions;
- (2) The Railway Service Commission;
- (3) The Police Service Commission;
- (4) The Armed Forces Council;
- (5) The Public Services Commission; and
- (6) The Education Service Commission.

In addition, there is also the Elections Commission which by the nature of its work merits some further remarks here. In the Constitution, the King is "required to have regard to the importance of securing a commission which enjoys public confidence". No member of the commission may be removed from the appointment except by the procedure for the removal of judges. This means that tribunals have to consist of judges and former judges, some of whom could be appointed from outside of the country, and Parliament may not discuss the conduct of the person concerned except on a substantive notion.

One pre-condition for the use of the Sultanate as a symbol of legitimacy is its widespread acceptance. A number of procedures were adopted to raise the Sultanate above controversy.

In these efforts, independence in 1957 must be considered a watershed. Before the constitution was accepted, raising issues about the Sultanate was still possible. With the acceptance of the constitution and the transfer of power to the Alliance, anyone still questioning any of their provisions could be open to the charge of being disloyal. Most political parties recognized the *fait accompli*. To raise the Sultanate still further above controversy, additional rules of debate were written into the standing orders of the state legislative assemblies and Parliament to forbid comment on the personality and character of the rulers. (Judges, members of the Public Service Commission, and others were given the same protection.) The rules also prohibit the use of the ruler's name to influence the assembly.

Although there were slight variations in wording in the rules adopted by the different state assemblies, the following excerpt can be taken as being generally representative. In the Standing Orders of the Trengganu State Assembly, under rules of debate, Clause 46 (XV) and (XVI) read as follows:

46 (XV) The name of His Majesty the Yang di Pertuan Agong or any of Their Highnesses, the Rulers of the Malay States or of either Their Excellencies the Governors of Penang and Malacca or of any Regent or member of a Council of Regency of a Malay State, shall not be used to influence the Assembly;

(XVI) The conduct or character of His Majesty the Yang di Pertuan Agong or of any of Their Highnesses the Rulers or of either Their Excellencies the Governors of Penang and Malacca or of members of Parliament or of the judges or other persons included in the administration of justice or of Members of any Service Commission or members of the Election Commission or of any other person at the discretion of the Speaker shall not be raised, except on a substantive motion; and in any amendment, questions to a member or remarks in a debate on a motion dealing with any other subject, reference to the conduct or character of any of the persons aforesaid shall be out of order.

In addition, there are also rules to disallow questions which reflect on the character and conduct of the rulers and all the other categories of people mentioned in the clauses above. The decision as to whether these rules are infringed is solely up to the Speaker of the Assembly.

The corresponding rule adopted in the federal Parliament is Standing Order No. 36 (8) which states that "the conduct or character of His Majesty the Yang di Pertuan Agong or any of Their Highnesses the Rulers or their Excellencies the Governors of Penang and Malacca or Judges or of Sovereigns of friendly states shall not be referred to except upon a substantive motion for this purpose".

Yet another measure which removes the Sultanate from the arena of public controversy and discussion is the Sedition Act of 1948 which has since been revised twice. The last of these revisions removed parliamentary privilege from the purview of this act, making members of Parliament just as liable as any member of the public for any infringement of the Act. Included in the definitions of a seditious tendency is one clause which specifically protects the rulers. This prohibits any act, speech, works, publication or other things which have a tendency "to bring into hatred or contempt or to excite disaffection against any Ruler or against any government".

The force of these measures, especially the 1970 revision of the Sedition Act, appears to have discouraged any public discussion of the Sultanate which would be open to the charge of having committed sedition.

Thus far, our previous discussion has focused on the general and largely symbolic uses of the kingship. We have indicated that while the role of the King may be in large part symbolic, it is not without implications that are in a larger sense political and functional. We now turn to a discussion of specific and more overtly political uses of the kingship, and we see how the two types of power vested in the King — discretionary and non-discretionary — are exercised.

1. Discretionary Power

The King is given discretionary power in the exercise of the following functions:

- (1) the appointment of the prime minister;
- (2) the withholding of consent to a request for the dissolution of Parliament;

- (3) the calling of a meeting of the Conference of Rulers and over any action at such a meeting; and
- (4) other functions mentioned in the Constitution.⁴

The first two functions are meant to be exercised when the constitutional processes in a democracy need some intervention and help from the sovereign, in order that it may be self-sustaining. In Article 43 (2) of the Constitution, the King should choose someone who in his judgement is "likely to command the confidence of the majority of the members of the House of Representatives". In practice, however, the exercise of such power is necessary only under restrictive conditions. Such an occasion arises, for example, when no party has gained a clear majority in Parliament, or when a majority has to be negotiated among various coalitions. Another such occasion could also occur when the majority party has not decided on a successor to the prime minister, and the need for a successor arises. The first and second prerogatives of the King give him the power to resolve any deadlock that might occur. So far, at the federal level, circumstances have been such that the King has been able to exercise these functions routinely. Throughout the life of the Malaysian Parliament the Alliance has held more than a two-third majority, UMNO holding a majority of seats held by the coalition partners. The choice of succession of prime ministers had so far been determined in advance by the UMNO party hierarchy.

The powers to ask for and convene a Conference of Rulers is available to all of the rulers. In the case of the King, this would presumably be whenever in his judgement the rights, privileges, position, honours, and dignities of the rulers are being affected in any way. The limitation appears to be that other subjects should not be discussed unless they affect in any way the prerogatives of the rulers. The other functions in which the King has discretionary power derive from his position as head of the Islamic religion in his own state, and in Penang, Malacca, and the federal territory.

Not strictly within this category is legislation which requires the consent rather than assent of the King. In the case of such legislation, the concurrence of the Conference of Rulers is required. This class of legislation is limited to any bill which affects the following Articles in the Constitution:

- (1) Article 38 which outlines the creation, functions, and powers of the Conference of Rulers;
- (2) Article 70 which deals with the position of the King and rulers;
- (3) Article 71 (1) which makes it the responsibility of the federal government to guarantee the succession and the maintenance of the ruler in each of the Malay states; and
- (4) Article 153 which allows the Malays and other natives special privileges in return for their safeguarding the legitimate interests of the other communities.

Except where the Conference is concerned solely with the rights and prerogatives of the rulers, each ruler attends the Conference flanked by his adviser, the *Mentri Besar*, and the King by the prime minister. It is stipulated that only then can the Conference discuss matters of policy. This means that in effect, subject to the

approval of the rulers to accept or reject the advice of their advisers, it is the government of the day that decides on such legislation. But veto power remains with the rulers. The King's prerogative to convene the Conference of Rulers at any time underscores his role as guardian of the rulers' interests *vis-à-vis* the federal government.

2. *Non-discretionary Power*

One of the more important non-discretionary powers of the King is to declare an emergency applicable either to part of or to the whole country. Article 150 seems to have been worded to give some leeway to the King as to whether to accept cabinet advice to declare any emergency. It says that before such action is undertaken, the King has to be satisfied that "a grave emergency exists whereby the security or economic life of the Federation or any part thereof is threatened". In the 21 years of the country's independence only four emergencies have been declared. (This does not include the emergency declared to fight the Communist insurgency which was declared before the country gained independence.) These four occasions have been for the following purposes:

- (1) to meet the threat of Indonesian confrontation which started in December of 1963;
- (2) to solve the political crisis in Sarawak when the Chief Minister, Stephen Kalong Ningkan, defied the order of the Alliance to resign and sued successfully for wrongful dismissal by the Governor;
- (3) to restore law and order after the May 1969 race riots; and
- (4) to resolve the crisis in the Kelantan State Government in 1978 when the chief minister refused to resign after a vote of no confidence was passed against him in the State Assembly.

What can we say about these emergencies that would be relevant to a study of the institution of the kingship? One could argue that the King has little choice but to assent to cabinet advice on such a declaration, and this would be true. In theory, he does have a choice. In practice, he could demur or delay signing the proclamation. He could also ask to be convinced of the prime basis for such a declaration. Such action of course could not be taken lightly. The prime minister and the cabinet members are his appointees, albeit according to the pattern determined by politics. It is they who have responsibility for solving political problems. Cast in terms of sovereignty and executive power, a declaration of emergency asks that the sovereign give legitimacy to extraordinary measures to solve certain kinds of political crises. These are measures sanctioned by the Constitution, although during an emergency actions might be taken which run counter to some of the constitutional provisions.

Paradoxically, although there is the greatest chance that the Constitution would be ignored during a political crisis, it is also during such political crisis periods that legitimacy is most important. It would follow from this proposition, that from the point of view of the constitutional monarchy, each emergency period can be seen as bolstering the institution.

The Indonesian confrontation, for example, provided the government with reasons to challenge the loyalty of political groups among the Malays and the

Chinese who were pro-Indonesia and opposed to the creation of Malaysia. These parties were the National Convention Party led by Aziz Ishak, a former Alliance minister who had left the party after disagreeing with Tunku Abdul Rahman; the Pan-Malayan Islamic Party, which has the largest Malay following outside of UMNO; and the Socialist Front, which besides the Partai Rakyat includes the Labour Party, easily the most left-wing and militant of the Chinese political parties. Sympathy with Indonesia at this stage represented a stance allied with Indonesia republicanism, a leftist orientation and Indonesia's repression of its Chinese minority. The Alliance was able to mobilize the majority segments of Chinese and Malays opposed to each one of these different orientations. The result was an overwhelming election victory for the Alliance. Coincidentally, the political strength of groups equivocal about the Sultanate waned. Among Malays loyal to the Sultan, the cultural affinity they naturally feel for the Indonesians was diminished by their attachment to their own separate political identity.

The restoration of parliamentary practice after the 13 May race riots led to two developments which had immediate implications for the rulers. One was a reiteration of the ruler's place in Malaysian society by the inclusion of loyalty to the King and rulers as one of the principles of *Rukunegara*, or the national ideology.¹ This was accompanied by an amendment of the Sedition Act of 1948 giving Parliament power to prohibit the questioning of any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the constitutional provisions on the national language, citizenship, the special position of the Malays and the sovereignty of the rulers; parliamentary privilege was removed for these topics. On 3 March 1971, the bill was passed with 125 votes for and 17 against — with substantial opposition support.

The second development, spurred by close election results in 1969, especially in the State of Selangor, was the designation of Kuala Lumpur as federal territory with parliamentary but not state representation. On 2 February 1974, six months before the August elections, a compact was signed by the Selangor Sultan and the Paramount King and witnessed by all the other rulers, by which Selangor relinquished this territory to the federal government. Because it involved boundary changes, the consent of the Conference of Rulers had to be obtained. The prospect of the King exercising some territorial jurisdiction, however small, must have appealed to them all. To the Selangor Sultan, whose sacrifice some compared to the giving away of the living room of one's house, it was promised that another state capital would be built, that he would retain special rights in Kuala Lumpur, and would receive other unspecified compensations.

The declaration of emergencies as a political tool to solve constitutional problems confers several advantages on the incumbent government. It demonstrates government determination and calls a halt to the existing political processes. In so doing, especially with racial issues, it frees political rhetoric from an escalating ratchet effect. Unencumbered by the need for consultative procedures and consensus building, swift action can be taken to safeguard security and impose law and order. The declaration is said to have a calming effect on the Malays by assuring them that the government is in control and there is no cause for insecurity.

Since only the government can initiate the move, unless its political judgement proves wrong, it could hardly be expected that the action would not help in securing its own position. For the rulers, any buttressing of the UMNO government automatically reinforces their own position. This follows not only from UMNO's strong position towards the Sultanate, but also from the fact that emergencies depend on the active acquiescence of the Paramount King in an important way and in practice go beyond the assent required by the Constitution. Each successive emergency, attesting to the political acumen and judgement of the government, has resulted in positive benefits not only to itself but to the basis of its own legitimacy — the reaffirmation and the reinforcement of the Sultanate.

Although the rulers in the person of the King can exert influence against capriciousness or arbitrariness when it arises, further safeguards were included to prevent any emergency enactments from amending existing Muslim laws, Malay customs, native law or custom in Borneo, or religion, citizenship or language. These safeguards (Article 150, Clause 6, 1963 Amendment) prevent any incumbent government from declaring an emergency for the sake of changing any of the cultural terms, all of which except provisions concerning Borneo, are the political preserve of the rulers. That such safeguards should be necessary shows that although there is mutual respect between the rulers and the government, there is good reason also to have safeguards understood on both sides.

The common assumption is that a constitutional monarch does not have any power and influence. In practice, the role of a constitutional monarch can be quite complex and in certain ways heavy with power and influence. While the myth of the powerless king has its currency in Malaysia, in fact, Malaysia offers a case study of something quite different. The Malaysian King is the symbol of legitimacy of a special kind. In multi-racial Malaysia, with two large bi-polar ethnic groups, the Malays and the Chinese, the Sultans represent for the Malays their claim to be *bumiputra*, or sons of the soil. They maintain the continuity with ancient Malay kingdoms which gives legitimacy to the present Malay-dominated government. Since the Sultanates are based on the hereditary principle and only Sultans are eligible to be King, the King will always be Malay, thus ensuring forever the Malay character of the State. The influence of the King and his fellow-rulers can be measured by the importance of this symbolism in the political system of the country.

Unlike the case elsewhere, in Malaysia sovereignty is shared by nine hereditary Sultans, by and from among whom the King is elected. If sovereignty resides in the King at all, it is by consent and delegation of all the rulers combined. In many of his functions, the King has to consult and get the concurrence of (and in some cases, the consent of) the Conference of Rulers. It is conceivable that this consultation extends to the other functions of the King as well. The King's tenure is only five years and the rotation of the office among the Sultans gives every ruler an important stake in that institution. Each of the rulers is a constitutional monarch in his own state, having powers in his state parallel to that of the King *vis-à-vis* the federal government. The combined prestige, influence, and position of the rulers and the King whether expressed formally or informally, inside or outside of the Conference, cannot fail to be given full weight by any prime minister. Although the Conference is

a consensual body, it is without doubt one of the most influential councils in the land.

The rulers are a major political resource in the governing of the multi-racial society. By championing the rulers, UMNO, without having to state it openly and without violating the non-political nature of a constitutional monarchy, can reap the benefit of the political mobilization of an entire racial community. The affection, loyalty, and trust the Malays have in their rulers make it possible also to invoke the rulers' name to absorb the communal pressures which appear. The sacrosanct nature of the kingship among the Malays makes it unwise for any non-Malay to criticize actions flowing directly from the King's authority, a fact that can be used to defuse racially controversial issues.

Roles and Functions of the Sultanate at the State Level

As we have seen, the King at the federal level is in a truer sense a constitutional monarch with a correspondingly greater obligation to follow the advice of his ministers. Elected to a limited five-year term, the notion is pervasive of only a short tenure with the holder exercising rights and powers that are only delegated to him. Until recently when Kuala Lumpur was designated federal territory the King, unlike the Sultans in their own states, exercised no territorial imperative. The multiplicity (and complicated myriad) of influence and power centres over which he presides make it difficult except in a very long term for the sustained accretion of power to any one king. The constant ceremonial rounds and the other demands of his office make him very much "a prisoner of the palace and of protocol".⁶

The same inhibitions are not present for the State ruler who besides his constitutional powers also has the considerable moral force of a revered hereditary office. A life-long reign allows for greater accretion of influence and power through the building up of relationships with officials throughout the state. In addition, the ruler presides over two separate Sultanate sub-structures: one comprising the nobility, palace officials, and district and village chieftainships, and the other made up of the entire administrative and regulatory structure for Islamic affairs. The pivotal role of the ruler at the apex of Malay traditional society makes him a formidable foe or an ally of the *Mentri Besar*, the State's chief political executive.

In the person of the *Mentri Besar* is also concentrated power through his multiple roles as head of the State's most popular party and membership of UMNO's Supreme Council (its top policy-making body) usually parlayed through the votes he commands from his state. The State Constitution vests all executive power in his hands — but all acts can only be undertaken legitimately in the name of the ruler. Only theoretically does the ruler act, since all actions are taken on the mandatory advice of the chief executive. It is only therefore in a constitutional sense that the *Mentri Besar* is an adviser to the ruler, since his advice has to be accepted. In reality and ironically, it is the ruler who advises the *Mentri Besar* since he has no other formal channels to help decide or influence policy except through his influence on the *Mentri Besar*, that is, the degree to which the *Mentri Besar* is prepared to listen to his "advice". We would therefore expect that the interaction between a ruler and the *Mentri Besar* is more intense with some inherent tension and in some

ways more problematic. This interaction is again complicated by the relationships between both the ruler and the *Mentri Besar* to the prime minister. The ruler either personally or through the Conference of Rulers, the King or perhaps other intermediaries, keeps in close contact with the prime minister for their mutual interests. The mutual importance of the *Mentri Besar* and the prime minister to each other derives from the former being an important intermediate party leader and ally in the party, and the latter being crucial to the state's administrative or political programmes.

The respective constitutional roles of the *Mentri Besar* and the rulers make them mutually dependent. Close co-operation is called for in several areas. Nearly every political resource available to the *Mentri Besar* requires the consent/assent or the oversight of the rulers. After he is appointed by the ruler, he presents to the ruler the names of those he would like appointed to the State Executive Committee (Exco) — the state cabinet. Except for the *Mentri Besar* himself, every member of the Exco serves at the pleasure of the ruler. This dismissal of these Exco members can be effected by the ruler alone. If such dismissal is initiated by the *Mentri Besar*, he will have to secure the consent of the ruler. Each Exco member is usually an intermediary leader of his own group of Assemblymen, hence, the support of all of the Exco members provides the *Mentri Besar* with his majority support in the Assembly and in the State elections.

All executive decisions on state matters are taken by the *Mentri Besar* and his Exco. The ruler, however, is entitled to all information that is available to the Exco. Land matters have to be decided by the Ruler-in-Council. This means that although the actual decisions are made by the Exco, the ruler has to ratify the decisions. Given the key importance of land for development and political mobilization efforts, the ruler can informally, if he so wishes, determine the pattern and pace of such activities. With other political resources, such as the granting of state honours, the final choice from among the nominated lists submitted by the *Mentri Besar* lies with the ruler. As in the case of the Paramount King at the federal level, appointive power to state posts rests finally with the ruler.

In all of these areas recounted above, the ruler's influence, if exercised, is not visible to observers. In the area, however, of state events and ceremonies over which the ruler presides, he is highly visible. It is customary for the ruler to deliver an address and open the new session of Parliament and each budget session. In addition, there are the official celebrations of the ruler's birthday accompanied by ceremonies for the granting of state awards. Because of (1) the high visibility of the ruler; (2) the strict observance of protocol and ceremonialism; and (3) the importance attached to legitimacy and all that this symbolism represents, it is at such ceremonials that the ruler shows symbolically his displeasure with the *Mentri Besar* or with state affairs in general.

The ruler, for example, can choose not to appear at the functions. In less serious cases, the heirs take the ruler's place. In another case, the ruler and three of the major chiefs in the state with whom he shares sovereignty absented themselves at the last minute from the official opening of the budget session of the *Negri Sembilan State Assembly*.⁷

The ruler's exclusive policy domains are over his household and matters of custom and religion. In the administration of such matters, the Sultan is aided by various councils, among which the more important ones are the Council of Succession which is usually part of the larger Advisory Council. These councils are usually formed with the titled *kerabat*, the immediate members of the Sultan's family, senior chiefs and usually the hereditary Datuks. In only two states, Negri Sembilan and Perak, is there still some territorial control attached to the chieftainship system. The aims or policies in the domain of succession can be briefly stated.

A first aim is to keep close royalty from diluting the royal line. Close royalty has to secure the ruler's permission before they marry. This is enforced especially when the member of the family concerned is in a direct line to succeed the ruler. Non-Malays are not allowed to be reigning queens although they may have titles conferred upon them.

A second purpose is to insulate the royal court from adverse political pressures. In some states, there is a rule that no active politician may serve on the Rulers Advisory Councils. In others, this rule has been modified to include politicians so that their services or influences can be bound to the interests of the State. There is also the requirement that the ruler's consent be sought for any close member of royalty before he gets involved in active politics. In Perak hereditary chiefs may not take part in politics.

A third goal of policy is to ensure that succession will be smooth and acceptable to all, and that no disputes be allowed to jeopardize the institution. Although the rule of primogeniture applies in general, there have been instances when this was not followed. As far as possible, the reigning Sultans try to institutionalize the succession through designating an heir. The rulers in some cases have permitted regulations to be written into the state constitutions requiring that his choice of heir be confirmed before he assumes the role of Sultan. However institutionalized, the succession in a few states has produced surprises.

In two areas the absolute power of the rulers has had to be modified in practice. One of these concerns the granting of state honours. Although the ruler is the source of all honours and continues to be so, because the legislature allocates the funds for such purpose, the ruler is constitutionally bound to follow the advice of the *Mentri Besar*. No case has been referred to an open court, but the legal consensus is that this should be the law. However, a novel solution was developed and is now part of the practice adopted in several royal houses. To emphasize his power, the Sultan still awards honours to those who are willing to pay for the decoration themselves. No state funds are incurred. However, no indication is given of this difference except that it is commonly understood that this is the case with "palace" Datuks. In the revocation of awards, the Sultans have acted with a free hand.

In the case of royal pardons, the ruler is aided by a state pardons board, but he is not obliged to follow its advice. This is a prerogative which has in the past been subject to public pressure, as in the case of the Chinese youths sentenced to death for being agents of Indonesia during the confrontation period. The pardons boards in the two states involved advised the ruler to reject the petitions, which the rulers did

in the first instance. Later, however, when the prime minister appealed to the rulers concerned in the interests of peace and racial harmony, the rulers found themselves with little choice. As though to learn from this experience, the government recently proposed a special pardons board to be headed by the prime minister to advise the King on pardon cases where the crime is an infringement of the Security Cases Regulations of 1971.

In the civil policy, the rulers' influence comes from their exclusive control over domains such as Islam, and their role as constitutional head of their own states. As such they are legitimately able to evaluate all policies undertaken by the government from their points of view. Thus, the grounds used by the rulers to affect secular policy have usually been related to the effects on Malay culture, or religion, or their wish to safeguard the states' rights against federal encroachment.

One example of policy held up by rulers acting as protectors of Islam was the legislation to enable eye and other organ transplants, which was first publicly mooted in 1967. Such legislation finally became law as the Human Tissues Act of 1974, testimony to how difficult it is to meet religious objections. Innumerable meetings were held to overcome the objections of the various state *muftis*.⁸ A strategy the government adopted was to solicit the opinions of several Muslim countries, who unfortunately turned out to be divided on the issue. It is not known how the rulers' objections were overcome. In the process, the government shelved drafts of the law which would have established different rules for Muslims and non-Muslims.

A separate law for Muslims and non-Muslims was inevitable in the area of personal laws. Non-Malays are now governed in the area of marriage and divorce by a bill passed in Parliament on 8 November 1975. This bill has no effect on Muslims, and in fact for non-Muslims, conversion to Islam is an adequate ground for divorce. Muslim family laws were put into review from the beginning of 1974 and a committee chaired by one of the rulers has been studying various drafts. So far this draft legislation which applies only to Muslims has yet to be ratified by all the states.

Because land is controlled by the State, and because all land alienation has to be approved by the Ruler-in-Council, this is another area in which the ruler, if he chooses, can influence secular policy. One case was reported where *Felda* had to stop a planned large-scale resettlement project because of a ruler's desire to have that area left untouched for ecological reasons.⁹

Conclusion

Our case study of the Sultanate in Malaysia shows the institution to be of overwhelming importance to the country. It is a political symbol which is endowed with significant roles and functions. In Malaysia's plural society, the Sultanate can be said to be an ideal political symbol representing as it does different political meanings while fulfilling the needs of the country's two main races, the Malays and the Chinese. To the Malays, the Sultans represent everything traditional that the Malays value. They symbolize not only political but also cultural and religious legitimacy. The combined support of these legitimizing symbols and the overarching

position of the Sultans within the present system manifested in all the political functions invested in them, provides security for the Malays. In the political sphere, the Sultans represent the long continuity with the Malay past.

Independence brought on a revival of all the ceremonial splendour of the Malay monarchy, old Malay titles, costumes and regalia — visible reminders that the Malay fabric of their society had not and would not change. Moreover, the independent Constitution stipulated that Parliament's power to legislate on all the special provisions relating to Malay special rights, language, and sovereignty would require the consent of the rulers.

The post-independence period can be characterized first by the extensive use of the Sultanate as a symbol of legitimacy with functional powers to oversee and influence the political processes and policies. The second characteristic was that each succeeding crisis, especially those seen as a non-Malay threat, resulted in the leadership buttressing and bolstering the rulers' rights and privileges even further. The Sultanate is now so inflexibly woven into the present political system that any attempt to dislodge would immediately cause a suspension of political rights.

The Sultanate was also a symbol which, while it expressed Malay sentiments fully, did not impinge too much on Chinese expectations. Their functional value for the Chinese is less easily demonstrated. A Chinese MCA leader described the Sultanate, as a stable and constitutional monarchy and as such, one of the best guarantees of political stability itself. It is true that measures taken to protect Chinese interests have not involved action by the rulers. The value of the rulers, however, to the Chinese lies in all the things that have *not* taken place — no Chinese businesses have been taken over by the State, there has been no confiscation of licences, and the like — all of which make more real the provision that the rulers should safeguard the legitimate rights of the other races.

The relationship between the Sultanate and the political élite have occasionally come under great strain. Breakdowns were prevented from becoming constitutional crises through the Malay habit of avoidance and the use of intermediaries. Although some of these breakdowns arise from substantive issues, the underlying causes were the inherent tension between the demands of a feudal sovereignty and modern democratic leadership. This is most certainly one result of making the Malay social and cultural sphere coterminous with the political spheres. One effect of this is to introduce the expectation that relations in politics should follow old time-worn Malay values such as deference and unquestioning loyalty to authority. The problem arises in areas where the authority structure is not clearly defined. One such area is that between the constitutional monarch and the popularly elected chief executive. The constitutional relationship, that is, the monarch having to accept the advice of his chief executive, runs counter to the notion of loyalty and the Malay notion that the popularly elected leader is only one of the ruler's ministers. On the other hand, politicians who have themselves won power in their own right are not about to surrender it easily. The Sultans preside over an institutionalized network of influence which parallels that of actual political power in the country. This comes about at the national level through the Conference of Rulers, and the federal kingship. The separate political identity of the states, and the roles and functions of each ruler

ensure that the powers of sovereignty are ubiquitous. Combined together, the rulers' power is maximized at the federal level. The power and influence of such symbolic élite vary in direct proportion to the value and significance of political symbolism.

However, political symbolism appears to be extremely important as a political resource to cushion various racial perceptions and demands. Such symbolism is invested in nine living symbols who can act and react in their own best interests, who have the position, power, and influence to do so, and who now find themselves in present political conditions where they can be most functional.

The Sultans — because of their shared power, their need for regional balance, their collegial decision-making — can be a force for moderation. They are a combined force for law and order, favouring moderate and perhaps even conservative policies over extreme designs or measures. Thus, the Sultanate, while a bastion for Malay interests, also nurtures the constitutional processes, which is critical for the protection, political participation, and interests of the Chinese.

NOTES

1. The one other state where the ruler is called *raja* instead of a Sultan is Perlis.
2. See James Allen, *The Malayan Union* (New Haven: Yale University Press, 1967).
3. *Far Eastern Economic Review*, 18 February 1977, p. 11.
4. Tan Sri Mohamed Suffian, *An Introduction to the Constitution of Malaya* (Kuala Lumpur: Government Printer, 2nd edition, 1976), p. 22.
5. Details of this are contained in an information department booklet *Rukunegara*. For a discussion of the general approach adopted, see R.S. Milne, "National Ideology and Nation-Building in Malaysia", *Asian Survey* 10 (July-December 1970): 563-73.
6. Tan Sri Mohamed Suffian, *op. cit.*, p. 28.
7. *Straits Times*, 24 July 1966, p. 4.
8. *Straits Times*, 24 March 1977.
9. *New Sunday Times*, 24 July 1977, p. 19.