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Raja Nazrin Shah

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MALAYSIA**

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Raja Nazrin Shah

THE MONARCHY IN CONTEMPORARY MALAYSIA



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The Monarchy in Contemporary Malaysia

*Minister Teo Chee Hean, Professor Wang Gungwu,
Professor Shih Choon Fong, Mr K. Kesavapany,
Director, Institute of Southeast Asian Studies,
Distinguished Audience.*

I am delighted to be here this morning to share my views with such an eminent gathering, which is a more than usually perceptive one. After all, the monarchy in Malaysia is, I am sure, a subject on which you are all already knowledgeable, even if only by virtue of our shared history and proximity. It is also a subject, I do not doubt, on which there will be a considerable divergence of opinion. This makes it all the more enticing, and I hope to find at least an

intellectual causeway through which we can have an exchange of views.

Introduction

I must also confess that having to present this subject to this audience is a somewhat titillating prospect for me because of the background of our two countries. Singapore and Malaysia were once considered Siamese twins, indissolubly linked by a common history, culture, family, and commerce. In 1965, separated by political surgery, the twins went very much their separate ways but continued to share an institutional framework that was a legacy of the British. One of the main divergences, however, was that Singapore left behind the constitutional monarchy it had enjoyed for a brief honeymoon — and therefore knows from the inside — and opted instead to be a republic. My subject today thus enters the arena of political and social choice on which we have taken different paths. My point is that the monarchy since then has evolved, and it is necessary to see it in the context of contemporary society, its contemporary form and structure, and the equally contemporary animus it commands. I do not intend this to be an academic treatise — there are ample

textbooks on the subject — but to present my own personal perspective of the monarchy, Malaysia-style and of twenty-first century vintage.

Monarchy is a subject of special importance to me personally. In dealing with it, I have to acknowledge a certain degree of subjectivity. However, if this also enables me to bring an insider's view to the subject, I am happy to do so. At the same time, however, as a student of history and politics, the subject also fascinates me, and here I can be more objective. There are very few monarchies left in the world. The Malaysian version, moreover, must be many times more intriguing than most, which makes it interesting in and of itself. I welcome the chance to examine this extraordinary phenomenon.

Our stubbornly cherished system of monarchy must seem to outsiders nothing but a curious remnant of history, an anachronism and one surely rendered obsolete now that we are into the third millennium. But this overlooks the essentially dynamic process in which the monarchy evolves, recreates, and constantly redefines itself in tandem with the progress of society as a whole. In one radical development within living memory, this pre-modern, pre-colonial heritage survived by

becoming a constitutional monarchy. This is what I am here to talk about today, and how this was achieved within a fully democratized system, thereby invoking the implicit consent of the *rakyat* (people) — the hallmark of democracy. We are a small but extraordinary little country, and an ingenious one. This has helped us reach an exceptional political and democratic arrangement in which the monarchy is placed above the political fray, yet remains an indispensable part of the social fabric, conferring its own brand of psychological security to the *rakyat* of all races. Part of the inbuilt respect for the monarchy is the permanence of the institution in a volatile world. It is an instrument of unity in diversity and an anchor institution.

Theme

These are strong claims. But now there is another implicit challenge in the temper of the times in which we live. We have reached — indeed, mankind has reached — a critical juncture in our affairs which dictates that we re-examine our basic assumptions. These are times of strategic change more rapid and profound than we have ever known. The question that is bound to arise is the continued relevance of the monarchy. Can it remain

viable? My thesis will be that it still has a crucial, albeit more challenging and complex role to play in the modern orbit of Malaysia in 2004 and beyond. In fact, its very uniqueness makes it peculiarly apt for the exigencies of the time. The distinguishing characteristic to which I refer that differentiates it from the stereotyped version is an unusual fusion of monarchy, democracy, and Islam — three powerful forces. We have successfully integrated them into one dynamic.

The Harmony Dividend

The Malaysian monarchy is not merely symbolic. Support for it goes beyond sentiment or symbolism. It is true we have retained the colourful mosaic of ceremonial splendours associated with royalty, which adds a touch of pageantry to what can sometimes be the humdrum side of life. One can even argue that this is the Malaysian alternative to the iconography of Hollywood though not as ephemeral. However, we are here concerned with the much more substantive role of the monarchy and its contribution to the surprising stability and harmony we have achieved. “Surprising” because it has to be seen in the context of the multi-ethnic profile of our population. Not just that, but the

countervailing strengths of the different ethnic groups that make up the population and the inherent dangers in these divisions have been compounded by our less orthodox policy of integration, rather than assimilation, to preserve the diversity in this plurality. We have by and large managed to contain any latent potential for strife, thanks in no small measure to the concerted role of monarchy, democracy, and Islam within the social and civil polity.

The monarchy provides a kind of social glue helping to bind us. It is true that the monarchy is a potent symbol of Malaysia being the “Land of the Malays”, and thereby primarily a bastion of Malay culture, identifying the Malays as the definitive people. But it is not exclusive. The monarchy is extended to Malaysians of all ethnic groups who accept its constitutional identity and live comfortably with its Malay-oriented social dimension. The monarchy, by its very nature, is a force of moderation over extremism. It can be seen as a bedrock of the constitutional process.

Democracy provides the avenue by which the various constituencies can give voice to the way they choose to be governed. It is government by consent and compatible with constitutional monarchy. The Ruler¹

plays an important and effective role in maintaining a democratic parliamentary system by remaining politically neutral and being seen to be unbiased.

Islam provides a moral compass. The Rulers are the Head of Islam in their state. Just rule is interpreted according to the tenets of Islam, which at the same time resonates with universal values found in all religions, thus providing another binding force.

The alchemy of all three — monarchy, democracy, and Islam — creates the desired cohesion. This has provided continuity and brings with it a dividend of social harmony that enhances the functioning of democracy and the underlying political as well as social stability.

The Monarchical System

The sultanates — and there are nine of them left — have been in existence for over six centuries with their roots in fifteenth century Malacca. It is interesting that Malacca is one of the states where the monarchy has since disappeared. What is pertinent is that the denizens of these past Malay sultanates considered themselves living not so much in geographically defined states in the European convention, but under Rajas. The Malay word

for “government” to this day is *ke-raja-an*, of Sanskrit origin, incorporating the word “Raja” and signifying “being subject to the Raja or Ruler”. The first kingdoms were imported by Hindu traders based on the *maharaja* model. The title “Raja” for royalty to be found, for instance, in my own state is a survival from that first era. The Arab traders, who followed, brought Islam and converted the kingdoms to sultanates in the Middle Eastern tradition. Nine Sultans remain as hereditary Rulers in their respective states. This proved a stumbling block to British imperialist ambitions for outright colonies resulting in the residency system, a form of indirect colonialism or de facto rule, which nevertheless preserved the semblance of Malay sovereignty, so as not to provoke the wrath and the resistance of their loyal Malay subjects. Treaties, separately negotiated with each Sultan in turn, resulted in a colonial scenario that was a bit of a patchwork.

The British, however, were percipient in one important respect. They were careful to accord reserve powers to the Rulers on sensitive matters pertaining to Malay custom and religion. The principle applies to this day. The Sultans remain not only as Head of their respective states, but also, as stated earlier,

Head of Islam.² They deliberate on matters of religion and Malay custom (*adat*) as their special area of competence, with a responsibility towards both Muslim and Malay identity.

The Independence Formula

With Independence, the monarchy became a constitutional monarchy with clearly defined parameters prescribing the sphere of influence left to the Sultans. The system of monarchy itself, too precious to relinquish, was prudently retained both in the federal and state constitutions along with Islam as the official religion,³ and Malay as the national language, but with inbuilt provisions for freedom of worship⁴ and recognition of other languages.⁵ Malaysians are very accepting. Accommodation is part of the national ethos. The position of the Rulers has since been constitutionally placed beyond debate. Their position as Head of State and Head of Islam remain unaffected. Independent Malaya had chosen to endorse its time-honoured monarchy, but in contemporary form. This then appeared to go against the modern trend. Monarchies in many countries, some of which had been in existence for several hundreds of years, came to be regarded as redundant. Newly emerging

or newly independent countries tended to go for a republican system of government — in some cases moving from a monarchy to the latter, which was clearly the more fashionable option, seen as synonymous with modernity.

The Yang di-Pertuan Agong⁶

Malaya, when it had the constitutional choice, not only retained its traditional sultanates at the state level but also introduced another layer of monarchy into the federal system, through an overall, supreme Ruler, thereby elevating the institution. Part of my theme is that the monarchy in our country is far from stagnant; revitalizing itself to stay in tune with the dynamics of the society in which we live and serve. The British legacy at Independence was a sound institutional framework, and it might have seemed difficult to improve upon. The new constitutional monarchy nevertheless represented a major innovation. While based on the British model, it nevertheless had its own indigenous identity. 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. 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, which literally means “He who is supreme amongst us”, that is, *primus inter pares*. “Supreme amongst us” because there was the somewhat delicate problem of no less than nine candidates. To whom should preferment go? It was resolved by democracy, instituting the charming custom of five-year Kings to be found nowhere else on this planet. They invented the unique practice of electing the Agong. The Yang di-Pertuan Agong is chosen by his brother Rulers, in the Conference of Rulers,⁷ and in secret conclave, rather like electing a Pope.

There was one other distinctive contribution. The throne rotates. Each Agong reigns for five years then graciously steps down allowing his brother Rulers the opportunity in turn to play a role on the national stage. The procedure gives due recognition to each state. The new so-called Merdeka Constitution, which introduced these practices, was concerned with preserving the traditional importance of the states.

The Conference of Rulers

Constitutional monarchy also led to the reconstitution of another traditional body — the Conference of Rulers, which existed pre-Merdeka but in a more restricted form. This became federal in scope with participation extended.

All states now take part — comprising a core group of the nine Rulers augmented by the four Governors from states lacking a hereditary Ruler.⁸ Strictly speaking, the King is not a member, but on matters of important national policy, the King, accompanied by the Prime Minister, participates.⁹ The consultative process is the hallmark of the Conference of Rulers.

The Conference performs a number of vital functions.¹⁰ It reserves the right to elect, and is the only body that has the power to remove, the Agong.¹¹ It has to be consulted in the appointment of certain important positions — the Chief Justice and other Judges,¹² the Auditor-General,¹³ and members of the Election Commission,¹⁴ the Public Services Commission,¹⁵ and the Education Services Commission.¹⁶

Certain important amendments to the Federal Constitution require the Conference's

prior consent, for example, any changes relating to the national language, the special position of the Malays and the natives of Sabah and Sarawak, and the position of the Rulers.¹⁷ These are all safeguards. The Conference thus provides an effective forum for consultation, participation, and, in some cases, sanction in the federal-state relationship, but all based on mutual respect. It is a forum for eliciting and making known the views of the Rulers, an instrument for them to exercise influence.

The cornerstone of the democratic system as we know it is the well-known doctrine of the separation of powers — the legislature, the executive, and the judiciary being the three entities. One could make a case for the Conference of Rulers to be considered a fourth entity.

Federal-State Relations

The Conference of Rulers reinforces the concept of federation. The concept is relatively new, and really only came in with Independence in a country where state loyalties run deep — where the people take pride in local heritage, customs, and traditions. It is a way of introducing more balance in the federal-state equation.

The new federalism, again with laudable diplomacy, did not attempt to concentrate powers at the centre, but selectively devolved it to the states, guaranteeing them a degree of autonomy. One of the basic precepts embodied in the Constitution is the distribution of sovereign power between the thirteen states and the federal government.

Within the spirit of the Constitution, the Sultan's traditional role is now extended to a wider sphere. He participates in the governance of the country. The Agong has a formal and highly visible role which underlines his prestige, supports the dignity of the throne and, in some cases together with his brother Rulers, provides important checks and balances to the government of the day.

The Agong formally appoints, but does not select, the Prime Minister.¹⁸ He reserves the right to dissolve Parliament.¹⁹ He may declare a "state of emergency".²⁰ Correspondingly, the Rulers at state level appoint the Chief Ministers and have the right to dissolve the State Legislative Assemblies.²¹

This then brings me to the factor of Islam in the equation.

The Islamic Factor

The Sultans are the custodians of Islam in

Malaysia. They have wide powers and discretion over matters relating to the Muslim religion. These powers and discretion are guaranteed by the federal and state constitutions. The Sultans have a great deal of influence in the direction of religious matters.

They appoint the state religious officials — the *mufti*, the judges, and the officers of the Syariah Courts; oversee the establishment, activities, and administration of mosques; and issue formal accreditation to religious teachers and missionaries.²² At federal and state levels, *fatwa* (religious edicts) need the consent of the Rulers.²³

To help them discharge their duty as Head of Islam is the Islamic Religious Council, a body appointed by the Ruler to assist and advise him on all matters relating to Islam.

Constitutional monarchy and democracy in our equation play a part in defining the exemplary status of Malaysia as a Muslim country, making us one of the most successful in terms of political stability and economic prosperity.

Malaysia is today held up as an exemplar of the kind of modern, progressive, moderate, and enlightened Muslim country that we truly are. It has demonstrated that economic development, modernity, and

technology are not incompatible with Islam. Islam as practised in Malaysia is open to the advances of the Knowledge Age. Islamic banking and *Takaful* insurance²⁴ are two examples of innovation in the areas of banking and finance, which have become models for other countries.

Muslim Malaysia can thus become a voice in the global debate, helping to correct the current inter-religious misunderstandings that are dangerously dividing the world. This country has been conferred leadership of the Organization of Islamic Conference representing all 57 Islamic countries in the world. The more we can promote the fundamental ethics of peace and brotherhood according to the tenets of Islam, the more we uphold the principles of Islamic justice. If we are to be an influence in the universal Islamic debate beginning to engulf us, it will be by example, not just precept.

The Challenges Ahead

Let me now address some of the challenges, as I see them, facing the monarchy in the years ahead.

The question is bound to be asked whether the Rulers are the exclusive preserve of just the one community, the Malays. Whilst

the Rulers themselves are without exception Malay and Muslim, the people of Malaysia are Malays, Chinese, Indians, Eurasians, Ibans, Kadazans, and other tribal people including the aborigines. Malaysians in the main are Muslims, Buddhists, Hindus, and Christians. Fostering the allegiance of the people is a challenging task in the midst of all this plurality. Yet our inherent differences have been accommodated into a constitutional framework that not only recognizes the traditional features of Malay society as the definitive culture but also reflects the social contract between our multi-ethnic communities.

Forty years ago, Professor Harry Groves²⁵ observed that the monarchy provides a “visible symbol of unity in a remarkably diverse nation”. Since then the roots of monarchy, I would venture to add, have grown even deeper in this inter-cultural soil. What was once perceived to be an essentially Malay institution is now accepted by all as a unifying factor. Far from remote, the Rulers are an integral part of public life, and a highly visible one at that, contributing often to the civil order. Malaysia’s monarchy can certainly play a proactive role in further forging a sense of “one community and one nation”

to which we aspire. It is a role the Rulers can more meaningfully play than anyone else given the special position they hold in society.

Second, there is the generation gap. The challenge here is to reach out to our young citizens. Here the litmus test of ongoing legitimacy is best applied to the youth, the inheritors of the future and with it, the present system of monarchy. What level of allegiance and acceptance will it command down the road? Today's generation does not remember the struggle for Independence, or the Constitution, which gave us much pride. They are more likely to be sceptical of the relevance and value of the monarchy. They have scant regard for, or patience with, grandeur or nostalgia. They want bottom-line benefits and accountability.

Rulers have to be seen to be addressing the real needs of society to fulfil their responsibility to the *rakyat* and in a more modern form — to demonstrate an interest in education and information technology, in ways appealing to a technologically savvy generation. It would be wrong for the Rulers to distance themselves from the issues of the day. They must be role models. I would here like to pay tribute to my father, His Royal Highness Sultan Azlan Shah, who, before he ascended the throne,

was an eminent member of the judiciary, who rose to be Lord President of the Federal Court of Malaysia,²⁶ and contributed significantly to the body of legal judgments and judicial wisdom that has helped develop Malaysian law.²⁷

Third, the monarchy must adapt to changing circumstances. Though steeped in tradition, it must reflect a contemporary outlook. Changes, when required, have to be addressed and accommodated to suit the temper of the times. In accepting calls for amendments to the Constitution in 1993 affecting the Rulers' immunity, the institution proved itself once again to be adaptable.²⁸

After all, the Rulers accept a duty of care to promote the welfare and the well-being of the people. Theirs is a role of dignified detachment and impartiality. The modern Ruler, far from being remote, participates in the affairs of the world and in the intellectual and public life of the community, often making a personal contribution that can be considered outstanding by any criteria. The nine Rulers are not made up of the uninformed. They bring to the throne and to the Conference of Rulers a degree of eminence in public life. They include a former Lord President of the Federal Court, Malaysia

(now renamed Chief Justice of the Federal Court), a former ambassador of his country, a former officer in the armed forces, magistrates, and public administrators.

Fourth, where the Rulers are constitutionally required to act on advice, they should accept the advice; where they are to be consulted, they should express their views independently without fear or favour; and where they are to act on discretion, they should exercise it with prudence and wisdom. After all, “constitutional monarchs are the impartial umpires”. In this manner, Rulers and elected members of government complement each other, thereby upholding the rule of law and good governance.

Fifth, the Rulers, as the Head of Islam, must make their voices heard on important issues affecting the Muslim *ummah* (community). Since 11 September 2001, Muslims all over the world have been demonized. But ordinary Muslims are very much like anyone else around the world, concerned about the quality of life for themselves and their children. Increasingly, middle-class Muslims are also concerned about their rights and freedoms, but unfortunately the moderates, who form the vast majority, prefer to remain a silent majority and shy away

from speaking out about how they configure their Islamic identity. This is unfortunate and can be perilous because in the vacuum it is the more strident voices that are heard.

The Malay Kingdoms pre-date the advent of Islam in the Archipelago. But Islam took root because it resonated with *kerajaan*, with the condition of having a Raja. For example, *Undang-Undang Melaka*²⁹ (the Malacca Law Digest) explains in no ambiguous terms the supreme position of the Sultan, but it is in the quality of the Ruler — his responsibilities and obligations as they had evolved since pre-Islamic times — that one sees resonance with Islam. The qualities required by the *Kanun*³⁰ for being a Ruler were that he should be merciful (*ampun*), generous (*murah*), courageous (*perkasa*), and firm in his rule. A fundamental ethos of Islam that reverberates throughout the *Quran* is that of mercy and compassion. Every *surah* (chapter) of the *Quran* begins with *Bismillah Al-Rahman Al-Rahim* — In the Name of God, the Merciful, and the Compassionate. I find the propagation of a moderate, inclusive, and progressive Islam, framed within the mandate to be merciful and compassionate as a defining element and challenge of the Rulers' stewardship over Islam.

Conclusion

In conclusion, I do not wish to end on just one facet of the monarchy, which is the Head of Islam, but on its multiple roles and responsibilities central to the evolution of a modern, democratic state. I hope I have demonstrated that the monarchy in Malaysia is different. In modern parlance, it has “perfected its own brand”. The final overriding claim I would make is that well within the spirit of the Constitution, we have helped nurture a harmonious society where citizens of various ethnic groups can live comfortably side by side.

Of course, what is good for us is not necessarily good for others. What then is the secret in our case that determines the choice we make of our form of government, its success and its embrace by the *rakyat*? If I were to single out the one most distinguishing characteristic of the Malaysian people, it is their graciousness. I would like to think that the dignity and the stature that have been preserved in our system of monarchy symbolize this rare but ineffable factor of grace that distinguishes Malaysians and Malaysia.

Notes

1. The terms “Ruler” and “Sultan” are used interchangeably in this paper.
2. Article 3(2) of the Federal Constitution.
3. Article 3(1) of the Federal Constitution: “Islam is the religion of the federation; but other religions may be practiced in peace and harmony in any part of the Federation.”
4. Article 11 of the Federal Constitution.
5. Article 152 of the Federal Constitution.
6. The terms “Yang di-Pertuan Agong”, “Agong”, and “King” are used interchangeably in this paper.
7. Article 32(3) of the Federal Constitution. See also the Fifth Schedule to the Federal Constitution.
8. Section 1 of the Fifth Schedule of the Federal Constitution.
9. Article 38(3) of the Federal Constitution.
10. As to the Conference of Rulers, see generally Articles 38(1) to 38(6) and the Fifth Schedule of the Federal Constitution.
11. Article 32(3) of the Federal Constitution.
12. Article 122B of the Federal Constitution.
13. Article 105 of the Federal Constitution.
14. Article 114 of the Federal Constitution.
15. Article 139(4) of the Federal Constitution.
16. Article 141A(2) of the Federal Constitution.
17. Article 159(5) of the Federal Constitution. The same Article also stipulates that certain other provisions of the Constitution may only be amended with the consent of the Conference of Rulers.

18. Article 43(1) of the Federal Constitution.
19. Article 55(2) of the Federal Constitution.
20. Article 150 of the Federal Constitution, by issuance of a Proclamation of Emergency.
21. See Eighth Schedule of the Federal Constitution.
22. This is provided for under the various State Constitutions. See also List II — State List to Ninth Schedule (Legislative List) of the Federal Constitution.
23. There are Fatwa Committees at both state and federal levels.
24. As to the law relating to *Takaful*, see Nik Norzrul Thani, Mohamed Ridza Abdullah, and Megat Hizaini Hassan, *Law and Practice of Islamic Banking and Finance* (Kuala Lumpur: Sweet and Maxwell Asia, 2003), chap. 7.
25. Professor Harry Groves, *The Constitution of Malaysia* (Singapore: Malaysia Publications Ltd., 1964). See also S. Jayakumar and Trindade, “The Supreme Head of the Malaysian Federation”, *Malaya Law Review* 6 (1966): 280–302.
26. Now renamed Chief Justice of the Federal Court of Malaysia.
27. *Judgments of HRH Sultan Azlan Shah With Commentary* (Kuala Lumpur: Professional Law Books, 1986); HRH Sultan Azlan Shah, *Constitutional Monarchy, Rule of Law and Good Governance: Selected Essays and Speeches* (Kuala Lumpur: Professional Law Books and Sweet and Maxwell Asia, 2004).
28. For a brief discussion on the 1993 amendments, see HRH Sultan Azlan Shah, *Constitutional Monarchy, Rule of Law and Good Governance:*

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Selected Essays and Speeches (Kuala Lumpur: Professional Law Books and Sweet and Maxwell Asia, 2004), pp. 388–98. See also the Editor's note on page 280.

29. The fifteenth century Malacca Law Digest. For a romanized transcription of this Digest, see Liaw Yoke Fang, ed., *The Undang-Undang Melaka* (The Hague: Martinus Nijhoff, 1976).
30. The term *Kanun* is a Malay reference derived from the Arabic, meaning the edicts of the Ruler, as differentiated, for example, from the edicts of the Syariah.

ABOUT THE AUTHOR

His Royal Highness Raja Nazrin Shah is the Crown Prince (Raja Muda) of the state of Perak, Malaysia. He is President of the Perak Council on Islam and Malay Custom and also President of the Perak State Islamic Development Corporation. He has been Pro-Chancellor of the University of Malaya since 1989. From 1989 to 1994, he was Regent of Perak when his father, Sultan Azlan Shah, became the ninth King of Malaysia.

Raja Nazrin Shah holds a B.A. (Hons.) in Philosophy, Politics and Economics from Oxford University and a Ph.D. in Political Economy and Government from Harvard University.