



PRESERVING RIGHTS TO LIFE OF THE PEOPLE WITHIN THE CLASHES OF TWO CRISIS: UNLOCKING THE MALAYSIAN RULER'S PREROGATIVE POWER

N., Abdul Aziz¹, M., Mohamad Mangsor² and N. E., Rahmat³, R., Ristawati⁴, A.H., Zainudin⁵

1735

^{1, 2, 3, 5} Faculty of Law,
Universiti Teknologi MARA, 40300 Shah Alam, Selangor, Malaysia.

⁴Faculty of Law, Universitas Airlangga, Jalan
Dharmawangsa Dalam Selatan, Surabaya, Indonesia.

Email: *¹noraz397@uitm.edu.my; ²mazlinamansoor@gmail.com; ³nurezan@uitm.edu.my;
⁴rosarista_ocha@yahoo.co.id; ⁵hafiza82@uitm.edu.my

ABSTRACT:

The spread of the Covid19 pandemic has shaken the life of people across the globe. For Malaysia, the struggle to reduce the growth of the pandemic is intruded with the political turmoil that has in many ways impair the people's rights to life. During this striving episode, respect towards the wishes of the voters is destroyed by the elected representative greed of power and money politic. When the people elected their representatives, they put hopes on the government to ensure the preservation of acceptable quality of life. However, the political scenario has destroyed their hopes. This study intends to critically discuss the constitutional framework on the prerogative power of the Yang Di-Pertuan Agong (YDPA) during the clashes of two crises (spread of Covid19 pandemic and political turbulence). The Federal Constitution accords the YDPA with discretionary power among others to proclaim emergency in time of crisis and to resolve political turmoil by dominating the appointment of the Prime Minister and to dissolve the Parliament. However, these powers are limited by the concept of constitutional monarchy that forms the fundamental structure of the Malaysian constitution. Often, the exercise of the prerogative power by the YDPA was challenged on the ground of unconstitutionality. This study adopts a qualitative approach to the gathering of data through doctrinal study. A thorough analysis of the relevant legal framework, strong scholarly views, and legal cases are made. It utilizes the normative method where the fundamental discussions are based on a normative approach with content analysis on the topic of the prerogative power of the rulers. Diagrams and tables assist in explaining the outcome of the research. The findings of the study portrayed that although the prerogative powers are restricted by the Federal constitution, yet the actual scope of prerogative power is wider especially in times of emergency. The outcome of the study may assist the government, policymakers, and stakeholders to map room for reformation within the scope of these prerogative powers to ensure democracy can be preserved in Malaysia. Each manuscript should contain an abstract of about 200 words and should be typed using Arial, Font size 10. The manuscript has to be camera ready.

KEYWORDS: *Ruler, Chief Minister, Prerogative power, Constitution, YDPA*

DOI Number: 10.14704/NQ.2022.20.12.NQ77153

NeuroQuantology2022;20(12): 1735-1749



1.0 INTRODUCTION

In Malaysia, a country with 31 million people, over 131,000 have been infected with covid19 and 537 fatalities have been reported starting 8 March 2020 to the early of January 2021. In early April 2020, the country had the highest confirmed cases in the region with triple-digit cases recorded every single day. On 7 January 2021, Malaysia reported 3,027 new cases, a significant plunge after a drastic increase in November 2020 of high infections. Out of the 131,000 covid19 cases reported in the country, more than 105,000 have been cured. In times of crisis, people need to be comforted with the assurance that their life, family, and property are protected by the reliable government. However, the occurrence of political disputes and the struggle for power among the politicians have a great impact on our economy, the sense of security among the people, and the future well-being of the nation living in the post-covid19 period. Thus, this paper intends to engage a critical discussion on the workability of constitutional prerogative power according to the Head of Executive, namely the Yang Di-Pertuan Agong (YDPA), in governing the rights of the people to enjoy their rights to life. It was a double threatening scenario for Malaysia when while it was tested with the spread of the pandemic, it also experienced the unprecedented change of government. Two crisis that has positioned Malaysia at a vulnerable state. Early March 2020, when the country was experiencing an increase in the number of covid19 victims, the people witnessed the first shocking resignation of its Prime Minister who has headed the new government for less than two years. The new government had recently created history in toppling down the previous government who had been in power for

62 years. Thus, it can be said that the new government was in the process of maturing in its administrative task. All these happenings had contributed to the shaken security and safety reliance of the people towards the government. In grasping for aid and breath, the constitutional role of the Monarch was put to test. For many years that the power of YDPA has been the subject of criticism and confined to a perfunctory and ceremonial role. This study intended to provide a critical discussion on the actual constitutional role of the King in safeguarding the enjoyment of the life of the people during the clashes of two crises.

2.0 RESEARCH METHODOLOGY

This study adopts a qualitative approach to gathering doctrinal study materials. The study adopts a normative method where the fundamental discussions are based on a normative approach with content analysis on the topic of the YDPA's function and power in the appointment of a Prime Minister in Malaysia. The data acquired through the doctrinal study is supported by the constitutional and legal provisions, legal cases, circular and directive. The study utilizes a content analysis approach and critically reviewed all literature on the role and power of the Monarch in determining the Head of the Government from various sources including, textbooks, journal articles, government reports, newspaper articles, and online sources together with the legislative framework for the constitutional power of the King in the appointment of Malaysian Prime Minister. This study examines the historical background, the scope, and limitation to these



prerogative powers by referring to the Federal Constitution, 1957 journey to independence report, relevant statutes, scholarly views, and academic discussions. Concerning the power of YDPA to decide who shall be appointed as the Prime Minister. The discussion also examines the interpretation of court that shapes Malaysian standing and the intention of the legislator when amendment and passing of new laws were made relating to these powers.

3.0 RESULTS AND DISCUSSIONS

The concept of constitutional monarchy, which forms the basic structure of the Malaysian Constitution, limits our ruler to act in line with the provision of the constitution that mostly provides for non-discretionary power (acting on the advice). There is a small portion of the provision that allows the ruler to act on their discretionary power but is restricted to other provisions of the constitution. Declaration of emergency (debatable), the appointment of the Prime Minister, and the dissolution of Dewan Rakyat fall under the YDPA prerogative power. Although some would argue that the declaration of emergency fall under the non-discretionary power of the YDPA, but as to date both sides of opinion are supported by strong authorities. Frequently that the exercise of these prerogative power by the YDPA was challenged on the ground of unconstitutionality. The issue of the Prime Minister's appointment conquered the news reporting sphere. The analysis of the scope of these discretionary powers of the YDPA will be the center of discussion and it's relevant during the crisis.

3.1 YDPA Power to Appoint the Prime Minister

Generally, the power to appoint the Prime Minister falls within the ambit of YDPA's prerogative power. Although this is the only appointment that the King is accorded with discretionary power, it can be said that this appointment supersedes the other appointment. The monarch in selecting the qualified Prime Minister is deciding who shall be his main adviser that will formulate advice for appointment of the other top government post. In a way, he may decide the direction of the formation of government when he appoints the anchor of government who he is satisfied had secured the majority support of members in the Dewan Rakyat. The exercise of this power can be analyzed through state cases (Stephen Kalong Ningkan (1966), Tun Datu Mustapha (1980), Dato Seri Nizar's (2010), the appointment of Sabah Chief Minister (2020) that were decided on the same constitutional provision at the federal level. The law is similar for the Sultans and the Governors in the States though there have been some spectacular, instances of royal assertiveness in this area. In Terengganu in 2008 the incumbent leader with majority support, Dato' Seri Idris Jusoh, was not appointed by the Sultan. In Perlis in 2008, Shahidan Kassim, the incumbent Menteri Besar was refused an appointment. In 2015, Dr. Wan Azizah, the choice of the ruling Pakatan coalition, was passed by the Sultan of Selangor. These precedents created the belief that in the states the Sultans have personal discretion in the appointment of the Chief Minister and the same assumption can be used for YDPA.

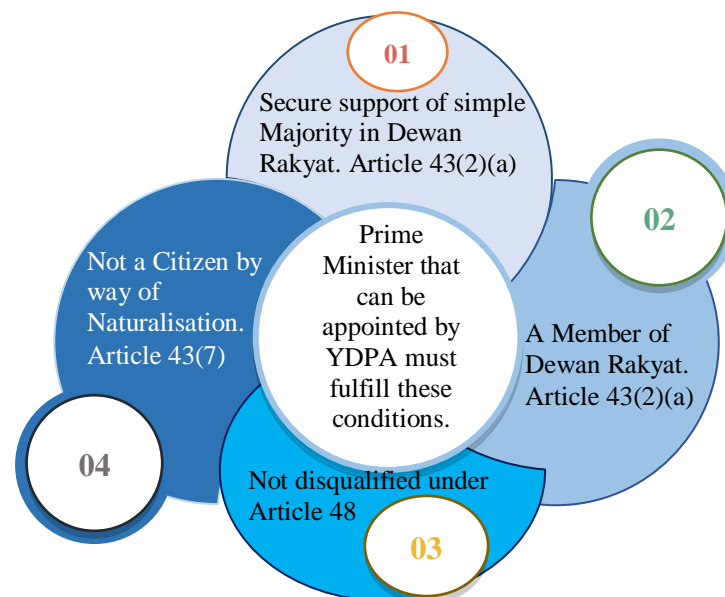


During the clashes of crisis at the beginning of 2020, this important power of YDPA was put to test. Without careful deliberation and exercise of this power by YDPA may expose the country to extensive political riots and unstable government that will later lead to many nasty outcomes such as the downfall of Malaysia's economy that has already been affected by the Movement Control Order (MCO). Analyzing the scenario that had taken place in Malaysia, it is observed that HRH does have his liberty to exercise his prerogative power when there is uncertain counting of who secures the majority support. The King's final selection of who sits in the chair of the Prime Minister may overrule the demand of the member in the Dewan Rakyat. In the appointment of the 8th Prime Minister, the Monarch has adopted the method that had earlier utilized by Sultan of Perak in 2009 in deciding the actual counting of support

of the majority for the then Perak Chief Minister.(Nizar Jamaluddin v Zambry, 2010). Earlier than this development, Harding, A. (2012) in his writing acknowledges that the recent trend shows the Malaysian ruler has taken a more active but somehow less formal approach in the Malaysian Society.

We have also read that the King's action in the appointment of the Prime Minister may be challenged on the ground of unconstitutionality. In elaborating this issue, this writing delves into the scope of power under Article 40(2)(a) and the concept of constitutional monarchy. The reading of Article 40(2)(a), which gives power to the YDPA must be accompanied by Article 43(2)(a) and 43(7) to ensure the constitutionality of the Monarch action. The combination of these two provisions can be understood as follows and the preceding discussion will be based on the following diagram:

Diagram 1: Prerogative power of YDPA to appoint PM within the scope of Constitutional Monarchy-Article 40(2)(a)



The construction of the Monarch's discretionary power shall be restricted to the concept of constitutional monarchy

(Harding, A., 2012; Bari, A.A, 2013; Bernama, 2020; Faruqi, S.S, 2018). Although the word discretion may be



generally interpreted to give wide power to HRH in choosing the Prime Minister of his preferences, being the constitutional monarch, his power shall be limited to choosing a person qualified to be a Prime Minister deliberated in the constitution. In a write-up on the constitutional monarchy in the country, Faruqi, S.S. (2018) said that as the formal head of the executive branch, the YDPA/ ruler of the state is also conferred with a vast array of powers in his office by the country's constitution. Neo, J.L. (2012) while writing on the role of the head of state in democracy country emphasized the significant role of the head of state, whether the monarchy or the president, to alter the balance of power of the government.

Concerning the YDPA, the Monarch could use royal discretion to appoint a person who he believed commanded the support of the majority in Dewan Rakyat as a Prime Minister. The 'confidence of the majority of the members of the House' is not a purely subjective or abstract matter. It refers to the verifiable evidence of seats and votes in the House. The phrase 'in his judgment' is likely to command the confidence of the majority means that the YDPA must be satisfied the potential candidate is likely to gain the support of the majority of the members of the House of Representatives (Dewan Rakyat). The candidate does not need to establish that he has the support but likely attaining the support from the YDPA's perspective. Only if there is a shred of conflicting evidence, for example, when there is a hung Parliament or the majority party is locked in a leadership dispute or the unethical practice of party-hopping has eroded the winner's majority, the YDPA's discretion comes into play. However, if a

party or coalition commands the confidence of an absolute majority of the members of the Dewan Rakyat, the YDPA has no choice but to choose a person from the winning party or coalition. According to Faruqi, S.S. (2020), the power of the YDPA in appointing the Head of the Government is a wide margin of discretion and wisdom. As the main individual in the Constitution, the King has the power to make important appointments not only according to the Constitution but also according to Parliamentary Acts (Muslim, N.,2013). Harley CJ (Borneo) in the case of *Stephen Kalong Ningkan* (1966), held that such exercise of Head of State's discretion is not unrestricted. Although the power of the head of state, in a constitutional monarchy system, is limited in exercising his executive function, yet the Monarch may dominate the choosing of the head of government.

3.2 Hung Parliament

A hung Parliament is a situation of House of Representative 222 composition that a ruling party or a political coalition not enjoying the majority support or confidence of members of the House. Once the majority's eroded, the YDPA's discretion comes into play (Faruqi, S.S.,2020; Mohamad Mangsor, M. et al., 2020). Conventionally, the current Prime Minister will continue the premiership as an interim caretaker. The law is silent on how long a caretaker government legally lasted. Article 55(4) allows 60 days gap without Parliament between dissolution and General Election and 120 days pass between dissolution and the first meeting of the new parliament. In this escalating conflict, news of a Barisan Nasional Member of Parliament withdrawal from supporting the current



ruling alliance ie. Perikatan Nasional and Tan Sri Muhyiddin Yassin as Prime Minister on 9 January 2021 has stirred up a sophisticated political crisis (The Star, 2021). This resulted in the drop of the Perikatan majority in Parliament from 111 to 110 and created a hung Parliament. Besides, the political ties between UMNO and Bersatu are expected to worsen with the latest announcement to review the existing

political connection at the end of the January 2021 UMNO general assembly (The Star, 2021). With the number of people infected by covid19 rocketing, the choice of a snap general election at the clashes of two crisis is highly likely prejudicial to the right of life of the Malaysian people. Diagram 2 shows the current political conflict of the Malaysian ruling party.

Diagram 2: The political crisis in 2020 and the composition of a hung Parliament



3.3 Dissolution of Parliament

During the two, health and political crisis, there were also attempts to dissolve the Parliament. Malaysia pledge that it adopts the spirit of democracy that empowers the people to decide who shall run the country. The spirit is materialized through the process of election. The usual exercise of power by a ruler in the appointment of the Prime Minister depends on the outcome of the election. In Malaysia's experience, the Prime Minister is usually a person who sits in a coalition or alliance that succeeds in securing the majority supports of the member in the Dewan Rakyat. In other words, the Malaysian government's formation landscape requires a political party, political alliance, or political coalition that wishes to form the government to secure the majority support of members in the

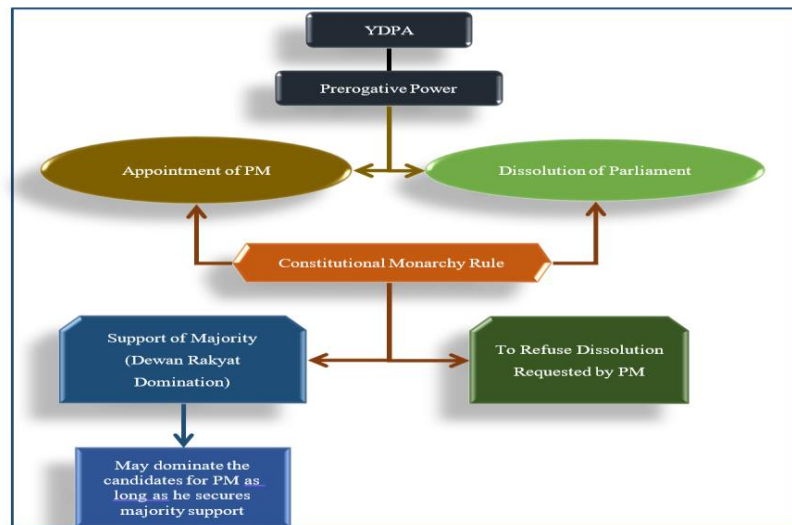
Dewan Rakyat. An analysis made to the political impasses early 2020, it can be said that the mandate given by the people through election has been betrayed when their decision was impliedly disregarded in the scenario of party defection or dissolution of a coalition. This has impeached the spirit of democracy. The people must be prioritized to ensure such a political crisis should not happen to emphasize that the people must be given priority in any form of resolution. The fact remains that the dissolution of the Dewan Rakyat or in Sabah conflict, the Sabah state legislative assembly is to return the power to the people to decide on a new mandate. Article 40(2)(b) accords discretionary power to the YDPA to dissolve the parliament if the Prime Minister ceases to command the confidence of a majority of the members of the Dewan rakyat. This discretionary power starts after the



happening of the above and the Prime Minister's request for dissolution. The Monarch could also use his discretion and refuse to accept the advice of the Prime Minister to dissolve parliament in the event the ruling party does not command a majority (Fernando, J.M,

2014). In the case of Dato' Seri Ir Hj Mohammad Nizar bin Jamaluddin, Sultan Perak in a similar occurrence refused a request to dissolve the state legislative of Perak on the ground of immaturity. Diagram 2 illustrates the nexus of Monarch's prerogative powers.

Diagram 3. Framework on the Prerogative Power of YDPA that helps to explain the above discussion.



3.4 The Party-Hopping Challenge

Party-hopping is common in Malaysia and recognized under Article 10(1)(c) of the Federal Constitution. In the case of *Nordin Salleh* (1992), only Parliament has the jurisdiction restricting a right to freedom of association i.e. party-hopping. The State of Kelantan moved to restraint party hoppers failed under the *Nordin Salleh's* case. No federal law has been introduced to limit party-hopping. Within this background, few States had experienced a political crisis that led to a switching of the ruling party due to party-hopping activities including in Perak in 2020 and 2009; in Malacca and Johore in 2020. An example in Malacca two defectors from PKR and DAP allowed shifting alliances from PH controlled

State government to BN (Leong, 2020). Kedah legislators rallied behind former MB to maintain the status quo but to no avail. The YDPA or the State Rulers in exercising their discretionary powers may consider a formal vote of no confidence if the Dewan Rakyat or State Assembly is in session. The Monarch also may determine the confidence of the House by having an audience with the members of Parliament. This was practiced during the 2009 Perak crisis and the 2020 Malaysian political predicament. In the political turmoil of Sabah, Musa Aman claims that he has secured the majority support of the members in the State Legislative Assembly thus qualifying him to be appointed as the Chief Minister.



3.5 Emergency in Malaysia

Amid battling the covid19 attack, once again the country is tested by the unprecedented vacancy of the Parliament sit, the call for Sabah state election, and the dissolution of the State Legislative Assembly of Sarawak. The 26 September 2020 Sabah Election, which results from the loss of majority support of its Chief Minister and the event of party hopping was said to be the main reasons for the re-increased of covid19 victim counting. Because of this, many people rejected the idea of having another election. However, Article 55, if there can be the absence of government/caretaker of government for 120 days. It also provides that a government shall exist for a term of 5 years after which a fresh election needs to be conducted to appoint a new government. These provisions form part of the supreme law of the land, ie the Federal Constitution. Inconsistencies to any of its provisions warrant legislation as ultra vires and any administrative action as unconstitutional and void. In addressing this issue, again the role of the YDPA to proclaim an emergency is seen as the solution. Article 150(2B) and (2C) of the Federal Constitution provide that the YDPA may promulgate ordinances if the two Houses are not in session concurrently. The ordinances will have the same effect as the Act of Parliament. Meanwhile, Article 150(5) provides for the power of Parliament to make laws on any matter in an expedited manner. Legislation under Article 150 can violate any provision of the Constitution except items in Art 150(6A) that relate to the Islamic law, custom of the Malays, matter of native law or customs in Sabah and Sarawak. Thus, postponing the election to more than the prescribed

duration in the constitution is allowed. This can be seen in the 1969 emergency declaration that recorded 2 years without the government being formed. The 2020 Batu Sapi proclamation of emergency and the 2021 national declaration of emergency in Malaysia as stated in Diagram 3 to combat disease outbreak intertwined with political reasonings to address constitutional aspects of a hung parliament and statutory demands of a by-election. This announcement was accepted with mixed responses including the Malaysian Bar Council voicing out concern on no mechanism to act as check and balances to control the exercise of powers by the Executive (The Star, 2021). Nevertheless, the exercise of power by YDPA under this provision is subjected to the interpretation that may categorize this power under the discretionary or non-discretionary power of YDPA. After Stephen Kalong Ningkan's case that took place in 1967, this power has always been accepted to be a non-discretionary power relating it to the concept of constitutional monarchy that HRH must at exercising his power need to act on advice unless it is clearly stated in the provision the power is to be the Monarch prerogative. Again, another significant mark was recorded when new legislative development was made in the interpretation of Article 150. To the advocates of prerogative power of YDPA, literal interpretation to Article 150 was made as the main reference supported by the amendment that was made to this provision in 1983 and lasted for a year before it was again amended restoring the power to declare an emergency to the YDPA. In this case, the intention of the Parliament in amending the provisions showed a strong inclination in making this power a discretionary power.



Table 1: List of Emergency Proclamation in Malaysia

The Emergencies / Years	Details	
18 June 1948	Reasons	<ul style="list-style-type: none"> ★ Communist attack. ★ European plantation managers were attack and killed by the communist.
	Parliaments	Before independence
	Laws / Regulations	The police were given the power to detain communists and those suspected of assisting them.
3 September 1964¹	Reasons	<ul style="list-style-type: none"> ★ Indonesia's declared policy of confrontation against Malaysia following The Formation of Malaysia on 16 September 1963. ★ The diplomatic offensive launched by Indonesia, which labeled the British-sponsored Federation as a neo-colonialist, was then dragged into an armed conflict. ★ The airborne and sea-land invasion on Malaysian territory by parachutists from Indonesia on the night of 2 September 1964.
	Parliaments	Parliament was in sitting concurrently.
	14 September 1966²	Reasons
Parliaments		Parliament was in sitting concurrently.
Laws / Regulations		<ul style="list-style-type: none"> ★ Emergency Ordinance 1966 [P.U.(A)339A/1966] ★ Emergency (Federal Constitution and Constitution of Sarawak) Act, 1966 (Act No. 68 of 1966)
Annulment		20 December 2011
15 May 1969	Reasons	<ul style="list-style-type: none"> ★ Racial Riots after the 1969 election. ★ Victory parade that had provoked racial tension in Kuala Lumpur followed by a series of small marches.
	Parliaments	Parliament was dissolved.
	Laws / Regulations	<ul style="list-style-type: none"> • Emergency Ordinance 1969 [P.U.(A)145/1969] • Emergency (Essential Powers) Ordinance, 1969

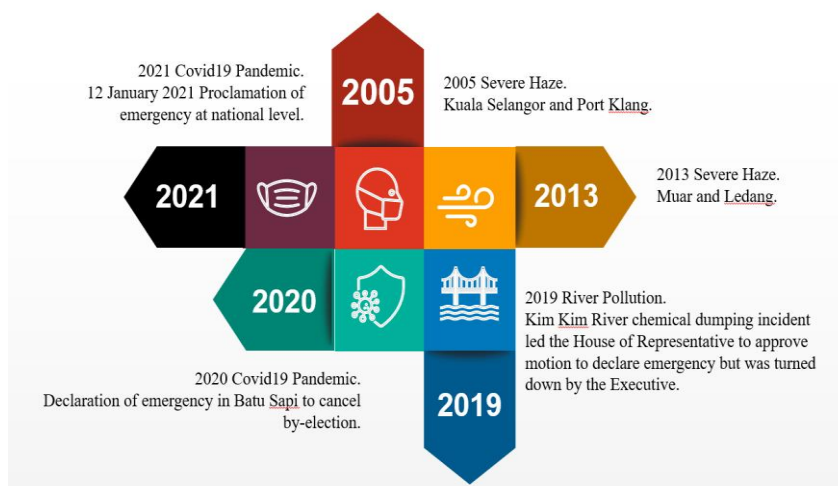


8 November 1977		(No. 1)
		• Emergency (Essential Powers) Ordinance 1969
		(No. 2)
		• Emergency (Public Order and Prevention of Crime) Ordinance, 1969 (No. 5)
		• Emergency (Essential Powers) Ordinance of 1969 (No. 6)
	Annulment	20 December 2011
	Reasons	<ul style="list-style-type: none"> • The proclamation is made because of the no-confidence vote against Kelantan Chief Minister Datuk Haji Mohamad bin Nasir in the Kelantan State Assembly. • There were several rallies made to protest the removal of the Kelantan Chief Minister.
	Parliaments	Parliament was in sitting concurrently.
	Laws / Regulations	<ul style="list-style-type: none"> ★ Emergency Ordinance 1977 [P.U.(A)358/1977] ★ Emergency Powers (Kelantan) Act of 1977

Whilst Table 1 highlights the declaration of emergency based on national safety and political reasonings, Diagram 4 below illustrates the environment and climate disaster and disease outbreak as the

grounds for the proclamation of emergency in Malaysia except for the 2019 move by the Legislature that was rejected by the Executive (Mohamad Mangsor, M. et al., 2020)

Diagram 4: Proclamation of emergency by the YDPA on environment and health crisis



The Home Minister can ban any kind of printing material which he deems as prejudicial to public order. He can even open all postal packages, read all

telegrams, articles, and printed matters, and detain that material under the Essential (Newspapers and Other Publications) Regulations, 1969. Article



150(6) of the Federal Constitution allows the Parliament to pass any law and His Majesty the King to promulgate any ordinance during a state of emergencies and those laws and ordinances will be valid even if they are repugnant or inconsistent with any of the provisions of the Federal Constitution. In the case of *Kam Teck Soon v Tim Menteri Dalam Negeri Malaysia (2003) 1 MLJ 321* the counsel for the appellant contended that the arrest and detention of the appellant under section 3(1) of the Ordinance violated Article 5(3) of the Federal Constitution.

The recent declaration of emergency is followed by the formation of an independent panel to advise His Majesty on matters relating to emergency. This is a wise decision as the membership to this independent panel comprise of representative of the current government, the opposition, the experts on Health, security, and effected group. Although, the early explanation was confined to advising when the appropriate time is to annul the proclamation, but the further elaboration says that the panel will forward advise on the necessity of action to secure rights of the people.

In summary, a state of emergency is a governmental declaration that may suspend some normal functions of the executive, legislative and judicial powers, alert citizens to change their normal behaviors, or order government agencies to implement emergency preparedness plans. It can also be used as a rationale for suspending rights and freedoms, even if guaranteed under the constitution. Such declarations usually come during a time of the natural or man-made disaster, during periods of civil unrest, or

following a declaration of war as provided in Table 1 and Diagram 3. The former also stated that the various emergency regulations have been promulgated and used since 1969. These regulations give wide powers to the police and the government. A person may be detained without trial and banished to a certain area.

4.0 CONCLUSION

The traditional assumption that the YDPA, under the constitutional monarchy system holds limited power in the administration of the country was shaken by new precedents made in the exercise of power by YDPA in the appointment of the 7th and 8th Prime Minister. Previously belittled to only holds ceremonial function in the exercise of his power, the YDPA awoken by stormy political conflicts stand strong to show that their role is indeed important to determine who shall head the government. Where members of the House of Representatives may show their supports to any other member that they wanted to be the Prime Minister, the YDPA will dominate the final decision to decide who HRH thinks suits the post of the Prime Minister. In performing this role, the Monarch has no unlimited and personal discretion to decide but is subjected to two main conditions that the candidate must be a member of Dewan Rakyat and enjoy the confidence of the majority of members of the House of Representative. Nonetheless, His Majesty has the final say in determining the new Prime Minister based on the constitutional requirement.



5.0ACKNOWLEDGMENT

This research was supported by the Kursi Institusi Raja-Raja Melayu (Institution of Malay Rulers Chair) Lestari research grant.

REFERENCES

[1] Abdul Ghani, M.S.(January 31, 2019). Kerana Institusi Raja terbentuknya Malaysia hari ini. Sinar Harian.

<https://www.sinarharian.com.my/article/10628/KHAS/Wacana/Kerana-Institusi-Raja-terbentuknya-Malaysia-hari-ini>

[2] Addruse, R. A. (1998, April 11). Police cannot assume the roles of judges. The New Straits Times. Retrieve from <https://www.nst.com.my/>.

[3] Ali. S.H. (2014) The Malay Rulers: Regression or Reform? (Strategic Information on Research Development Centre:46.

[4] Azrae, A. N. (2020). Reassessing the roles of the Yang di-Pertuan Agong and the Rulers in the making of international treaties. UUM Journal of Legal Studies, 11(2), 117-152.

[5] Bari, A. A. (2003). The Malaysian Constitution-A Critical Introduction. Kuala Lumpur: The Other Press.

[6] Bari, A. A.(2013). The Monarchy and the Constitution in Malaysia(IDEA):333-50.

[7] Balakrishnan v. Ketua Pengarah Perkhidmatan Awam Malaysia and Government of Malaysia. (1981). Malayan Law Journal, 2, 259.

[8] Bernama, "Power of Agong: Between 'prerogative and advice", November 18, 2020, Selangor Journal.

[9] Choo, C. T.(2005). Constitutional Procedure of Consultation In Malaysia's Federal System 4 M Xiii.

[10] Faruqi, S. S. (2020, March 26). Appointment of A Prime Minister – No. 3 of a Series of Essays by The Tun Hussein Onn Chair in International Studies. ISIS, Malaysia. Retrieved from <https://www.isis.org.my/2020/03/26/appointment-of-a-prime-minister-no-3-of-a-series-of-essays-by-the-tun-hussein-onn-chair-in-international-studies/>

[11] Faruqi, S.S. (2018). Our Constitution. Kuala Lumpur: Sweet & Maxwell.

[12] Faruqi, S.S. (2008). Document of Destiny, The Constitution of Federation of Malaysia. Kuala Lumpur: Star Publications (Malaysia) Berhad.

[13] Fernando, J. M. (2014). Defending the Monarchy: The Malay Rulers and the Making of the Malayan Constitution, 1956-1957. VARIA, (88), 149-157.

[14] Imtiaz Omar. (1996). Rights, Emergencies, and Judicial Review (The Hague, Netherlands, Kluwer Law International): 93.

[15] H. Andrew. (2012). The Constitution of Malaysia: A Contextual Analysis. (Hart Publishing):123.

[16] Giffard, H.S.(2008).Halsbury's Laws of England-Constitutional Law. vol 3(3).4th eds. (Lexis-Nexis Butterworths):77.

[17] Harding, A. (1996). Law, Government, and the Constitution in



Malaysia. The Hague; London: Kluwer Law International.

[18] Hunud, A. K. & Sambo, A. O. (2013). Justiciability of Legislative Proceedings: A Legal Analysis of the Malaysian Courts' Approach. (Vol. 21, 233) IIUM Law Journal. Retrieve from <file:///C:/Users/manira/Downloads/103-Article%20Text-352-1-10-20140507.pdf>.

[19] Hussein, K., Hassan, H., Adam, R., Zulkifli, N.S., Ismail, A. & Sarji, A. (2013). Peranan Institusi Pengajian Tinggi Dalam Memartabatkan Dan Memperkasakan Institusi Raja Di Malaysia Ty - Book Conference: Seminar Institusi Raja Kuala Lumpur Volume: 1.

[20] Lee, H. P. (2017). *Constitutional Conflicts in Contemporary Malaysia* (second edition). UK: Oxford University Press.

[21] Lee, H.P. (2010). Constitutionalized Emergency Powers: A Plague on Asian Constitutionalism? In Victor Ramraj & Arun Thiruvengadam (eds), *Emergency Powers in Asia: Exploring the Limits of Legality*. Cambridge University Press, Cambridge, 411.

[22] Lee Fook Lum v. Public Prosecutor. (1966). *Malayan Law Journal*, (1), 100.

[23] Lee, M. W. K., Haji Yaakub, H. M. A., Yaik, L. K., Baji Abdullah, H. O., & Mohd Noordin, H. H. (1977, November 9). *Penyata Rasmi Parlimen*. <https://www.parlimen.gov.my/hansard-dewan-rakyat.html?uweb=dr>.

[24] Leong, T. (2020, March 4). Johor, Melaka assemblies change sides. *The*

Straits Times.
<https://www.straitstimes.com/asia/se-asia/johor-melaka-assemblies-change-sides>.

[25] Lim, I. (2020, February 27). Risk of power abuse, dictatorship tendencies: Pundits caution against unity govt idea. *The Malay Mail*.
<https://www.malaymail.com/news/malaysia/2020/02/27/risk-of-power-abuse-dictatorship-tendencies-pundits-caution-against-unity-g/1841395>.

[26] MAIS.(2020). "Kepentingan Mendaulatkan Sistem Beraja di Malaysia"
<https://www.mais.gov.my/kepentingan-mendaulatkan-institusi-beraja-malaysia/>.

[27] Mezarik, A. G. (1965). In Mezarik (ed) *Malaysia--Indonesia conflict; creation of Malaysia, Indonesia's confrontation policy, Philippine and Indonesian claims, UN involvement, Indonesian withdrawal from UN, roles of UK, US, USSR, and China*. *International Review Service, Vol. XI No. 86*, 4-122.

[28] Mohamad Mangsor, M., Abdul Aziz, N., Rahmat, N. E. & Zainudin, A. H. (2020, June 27-28). *The Role of Malaysian Monarch in Dominating the Decision of Dewan Rakyat to Appoint the Head of Government in Malaysia* [Paper Presentation]. International Conference on Social Science and Technology for Postgraduates and Researchers (ICSSTPR2020), Perak, Malaysia.

[29] Mohamad Mangsor, M., Abdul Aziz, N., Rahmat, N. E. & Zainudin, A. H. (2020, December 9–10). *Modelling Lockean Legalism in the Executive Emergency Power on [30]Environment and Climate Change Domain in Malaysia* [Paper presentation]. 7th International



Conference on Science and Social Research 2020 (CSSR2020), Shah Alam, Selangor, Malaysia.

[31] Mohd Nor, M.R. and Ahmad, M.(2013). "The Malay Muslim Dilemma in Malaysia after the 12th General Election. *Malaysian Journal of Democracy and Election Studies*, (1), Issue 1, 10-23.

[32] Muslim, N., Hassan, W. Z. W., & Umar, A. (2013). The Role of the Malay Royal Institutions According to the Constitution in Safeguarding Malay Position from the Higher Education Perspective. *International Journal of Humanities and Social Science*, 13(3), 267-274.

[33] Muslim, N. (2019). Socializing the Constitution: Malaysian National Agenda. *Asian Social Science*, 15(11), 35-41. <https://doi.org/10.5539/ass.v15n11p>.

[34] Muslim, N., & Umar, A. (2017). Melayu Royal Institution According to the Federal Constitution within the Context of Ethnic Relations in Malaysia. *Akademika*, 87(1), 35-48. <https://doi.org/10.17576/akad-2017-8701-03>.

[35] Muslim, N. (March 9, 2020). Institusi Raja Tiang Seri Kedaulatan Negara. *Berita Harian*. <https://www.bharian.com.my/ren-cana/komentar/2020/03/663377/institusi-raja-tiang-seri-kedaulatan-negara>.

[36] Neo, J. L. (2012). Change and Continuity: The Constitutional Head of State and Democratic Transitions in Malaysia. *Malayan Law Journal*, (5), xxx.

[37] Ramachandran, J., Mathialagan, S., & Panchalingam, L. (2019). The Change and Continuity of Living Constitutions:

Perspectives on the Malaysian, British, and Indian Constitutions. *Current Law Journal*, LNS (A), (1), iv. <https://www.cljlaw.com/bulletin/?CLJBulletin;2019;17>.

[38] Shah, D. A. H. (2019). Constitutionalising Multiple Pluralities in Malaysia. In Neo, J. L., & Sou, B. N., (2019). *Pluralist Constitutions in Southeast Asia*. UK: Hart Publishing.

[39] Shah, Y. A. M. R. T. A. (1982). The Role of Constitutional Rulers: A Malaysia Perspective for the Laity. *Journal of Malaysian and Comparative Law*, (9), 1-18.

[40] R.H Hickling. (1975).The Prerogative Power in Malaysia. *Malaya Law Review*, (17), 222-223, 207.

[41] The National Operation Council. (1969, October 9). *The May 13 Tragedy: A Report of The National Operation Council*.

[42] The New Straits Times. (2018, May 10). Pakatan Harapan wins 14th General Election. *The New Straits Times*. <https://www.nst.com.my/news/politics/2018/05/367907/pakatan-harapan-wins-14th-general-election>.

[43] The Star, (2021, January 9). Barisan MP withdraws support for Muhyiddin, bringing Perikatan majority down to 110. *The Star*. <https://www.thestar.com.my/news/nation/2021/01/09/barisan-mp-withdraws-support-for-muhyiddin-bringing-perikatan-majority-down-to-110>.

[44] The Star. (2021, January 13). Declaration of Emergency should not put



democracy, rule of law in peril, says Malaysian Bar. *The Star*. <https://www.thestar.com.my/news/nation/2021/01/13/declaration-of-emergency-should-not-put-democracy-rule-of-law-in-peril-says-malaysian-bar>.

[45] The Star. (2020, February 26). King to meet all MPs before making decision. *The Star*. <https://www.thestar.com.my/news/nation/2020/02/26/king-to-meet-all-mps-before-making-decision>.

[46] The Star. (2018). GE14: Results Overview. *The Star*. <https://election.thestar.com.my/>.

[47] Vern, W.T.T. (2019). Subversion and Emergency Powers. *Malayan Law Journal*, (4), lxxiii.

[48] Yao, S. (2016). *The Malayan Emergency A small, Distant War: Vol. No 133* (Monograph series). Nordic Institute of Asian Studies, 40-41.

[49] Zainal, A. (2020). In Lim, I., (2020, February 27). Risk of power abuse, dictatorship tendencies: Pundits caution against unity govt idea. *The Malay Mail*. Retrieve from <https://www.malaymail.com/news/malaysia/2020/02/27/risk-of-power-abuse-dictatorship-tendencies-pundits-caution-against-unity-g/1841395>

[50] Zainal, H. (2017, April 24), The Role of the Yang Di Pertuan Agung. *The Star*. Retrieve from <https://www.thestar.com.my/news/nation/2017/04/24/the-role-of-the-yang-dipertuan-agong/>.

