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Beyond the Monarch: Rulers and the Policy Environment in Malaysia and the United Kingdom

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Abstract

The study explores the intricacies of rulers' contribution to the policy environment in both Malaysia and the United Kingdom. The study aims to investigate the mechanisms through which monarchs exercise their influence on the policymaking process. The research offers insights into the dynamic forces of monarchical influence within policy environments, considering factors including political culture, constitutional limitations, and the rulers' inclinations. The research collected the primary data from semi-structured interviews with five respondents and focus group discussions. This study discovers that the exercise of power by the monarchy has led to constitutional challenges in judiciary activities.

Keywords: Monarchy system; Ruler; Policy Environment; Malaysia and UK Constitution

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1.0 Introduction

This study researches the captivating monarchical influence on the policy environment in two separate but interrelated countries: Malaysia and the United Kingdom. Despite the evolution of democratic systems, these countries uphold ancient monarchies that remain to hold symbolic and constitutional significance. Contemporary constitutional events such as the Prime Minister's selection following the resignation of Tun Mahathir in 2020, the declaration of the emergency in 2021, and the formation of the unity government in 2022 raise questions on the role of the Monarch, namely YDPA in policy in decision-making in Malaysia. Previous studies on the existing Malaysian constitutional monarchy interpret the model as the UK monarchy model, known as the Westminster model. The exercise of power by the monarchy in policy-making sometimes leads to constitutional challenges in the courts (Stephen Kalong Ningkan, 1968; Anwar Ibrahim, 2021; Salahuddin Ayub, 2021), often decided differently in similar cases.

In most cases, the courts have decided such cases according to the Westminster principles, which might need to augur better for political stability, racial harmony, and unity. The study's objective is to propose a reformation of the involvement of rulers in the policy-making process using the Malaysian common-law model of constitutional monarchy. The suggestion can be formulated by adopting Malaysian local identity, values, culture, and beliefs, which is a better alternative to understanding the constitutional monarchy's role and functions within the landscape of Malaysia. The UK monarchy system is also analysed as a guideline for interpreting monarchical power in policy-making. This research aligns with the present government's initiative to inculcate the spirit of Rukunegara and support the 16th

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sustainable development goal stated in Agenda 2030 and the 12th Malaysia Plan. The study aims to investigate the mechanisms through which monarchs exercise their influence on the policymaking process. The objective of the study is to provide an outline for a Malaysian common-law constitutional monarchy in the policy-making process.

2.0 Literature Review

Previous pieces of literature on the monarchy system in Malaysia or the UK can be mapped into several themes, including the historical study that is mostly attached to the scope of power, the types of monarchy system and its implications to the country, and how the monarchy system developed through activities of legislative, executive, and judiciary. Because autocracy is historically tied with monarchy, economic studies of dictatorship pay some attention to monarchical governance (Tridimas,2021). In a study by Congleton on the UK Monarchy system, he narrated how the crown survives because the king made sufficient concessions to the council-parliament, which desires greater influence in policymaking (Congleton, 2011). The United Kingdom is a country that is based on an unwritten law where the power of the Monarch comes from the convention and legislation (Neo, 2012; Ramachandran,2019).

Many studies on the historical development of the Malaysian monarchy system analysed the evolution of the Malaysian monarchy system starting from the Malacca Empire sultanate, during colonisation, and the constitutional monarchy under the Federal Constitution modelled after the Westminster concept. Although studies traced the existence of the monarchy system in Malaysia way before the Malacca empire, the study of monarchy and its connection to the legal system were best elaborated by studies on the Malacca Sultanate onwards. Writers (Mais, 2020; Hashim, 2015) agreed that the significant contribution of the Malaysian Ruler can be analysed by how history had recorded the administration of Malacca in the 13th century was under a great Muslim Ruler and has positioned Malacca as an empire with comprehensive administrative structure and system (Abdul Ghani, M. S., 2019; Mais,2020; Mohd Nor, M.R. & Ahmad, M.,2013, Wan Hussain, 2017). Some authors use the indigenous perspective in viewing Hukum Kanun Melaka, which enshrines the concept of Ruler's sovereignty that was majorly influenced by Islamic values. (Wan Hussain, 2017) Under Islamic principles, the Ruler is attached to the Islamic Caliphate concept, and this was accepted and became the new norm within Malay society during the Malacca Sultanate. (Wan Hussain,2021; Andaya, 1984) A similar acknowledgement can be seen in the selected Essays and speeches of HRH Sultan Azlan Shah, who said Islam accepted monarchy rather than introducing it. The Head of State is also the Religious and Governmental Leader in Islam. (Sinnadurai, 2004) He is recognised as the Prophet's successor, where God awards the rulers sovereignty above others. By this, he shall govern the rights of others to ensure harmony and peace among the people and must be well-versed in religious instruction. (Zainal,2020; Sudijman, 1983; Mangsor et al., 2021) As His Majesty is Allah's vicegerent, the Monarch's delegation of powers must be limited to what has been prescribed by the divine law. (A.Aziz, 2008; Lee, 2012; Harding, 2012)The holding of Islam as the law of the land and the Canon Law Melaka as the Constitution of Malaya explains the source of the true sovereignty of the Malay Rulers founded during the Malay Sultanate Malacca. (Wan Hussain,2017) According to Liaw's (1976) study, the Malacca Code of Laws provisions were added from time to time until the 19th century. Input from the study of several writers (Hooker,1976; Hashim, 2015; Liaw, 1976) showed that the Malacca Code of Laws continued to be adopted by the Governments Malay State even after the dissolution of the Malacca Malay Kingdom around the end of the 17th century ruled in Johor.

The institution of the Malay Rulers also checks and balances the power of the government and the Prime Minister(Wan Hussain,2021; Rahmat, 2021; Abdul Aziz et al., 2023). This can be seen through existing conventions and practices, such as the Prime Minister addressing the YDPA and giving a report every Wednesday weekly (Syed Ahmad, 2019). Also, His Majesty the Sultan's Order and YDPA are respected at every level of society; for example, YDPA's order as Chancellor on the Announcement Day as Chancellor of UiTM has given authority to the Chair of the Institution of Malay Monarchs to develop a module to instil a love for Malay Monarchs (Chancellor UiTM, 2019). Both the writings of Bari (2013) and Ali (2014) agree that the rulers are aware of the need to show their strength to adapt to changes in the interpretation of the modern and evolving Constitution that change the functions often limited to ceremonies. The literature review found an absence of studies formulating the Malaysian common law constitutional monarchy model that may reduce the disparity of thoughts when describing and arguing about the Monarch's scope of power and role during the policy-making process.

3.0 Methodology

This study adopts a qualitative method based on doctrinal and empirical work. The foundation of the study was built based on an analytical analysis of historical documents, cases of law, and local and UK statutes. The data for the foundation were made using two main themes: the constitutional monarchy in Malaysia and the Constitutional monarchy in the United Kingdom. From the foundation, specific themes and coding were established. Each composition was further studied based on a systematic code of history, the types of Constitution, the Monarch's power source, and limitations to the power and policy-making environment. Each theme and code were further tested and analysed through semi-structured interviews and Focused Group Discussion. The doctrinal study findings, semi-structured interviews, and focus group discussions were analysed using content and thematic analysis to provide depth and comprehensive findings.

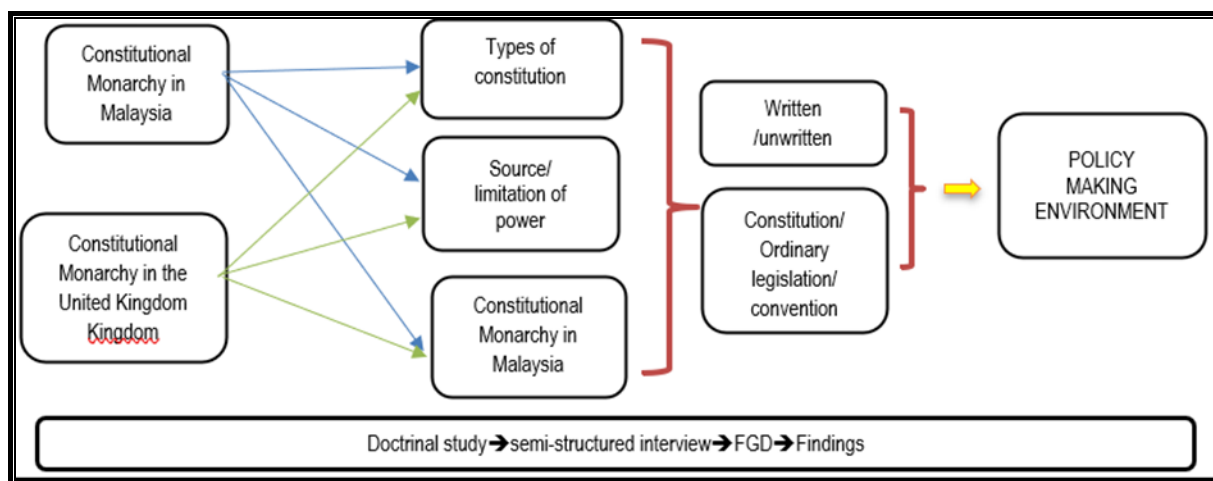


Figure 1: Framework for the Research Analysis Activities

4.0 Findings

4.1 Historical

The historical evolution of Malaysia's monarchy is characterised by a transition from an absolute monarchy to a constitutional monarchy. Traditional Malay rulers once held substantial power over their territories. However, British colonial influence and subsequent independence led to the establishing of a constitutional framework that sought to balance royal authority with democratic governance. The study finds that there are three significant influences over the power and limitation of the Malaysian Ruler in the policy-making environment, namely the exclusive power owned by the Ruler during the Malacca Sultanate empire, the diminishing of power during colonisation, especially during the British colonisation (Bari & Shuaib, 2009; Focused Group Discussion. 2022, December 12) the pre-independence major tribulating event that threatened the existence of the monarchy system in Malaysia. The tribulating events include the Malayan Union in 1946 and the Federation of Malay States Agreement in 1948.

In the UK, events such as the Magna Carta and the Glorious Revolution led to the establishment of constitutional principles that gradually shifted power from monarchs to elected representatives. The English monarchy held substantial power and authority in medieval times, often exercising direct control over policy-making. Monarchs issued decrees, collected taxes, and made important decisions without parliamentary approval. This absolute authority began to shift during periods such as the Magna Carta in 1215, which established the principle that even the king was subject to the law. The English Civil War and the subsequent Glorious Revolution of 1688-1689 resulted in the establishment of constitutional principles that limited monarchical authority. The Bill of Rights and the Act of Settlement codified key principles, including parliamentary supremacy, the prohibition of standing armies without parliamentary consent, and the requirement for monarchs to be Protestant.

4.2 Types of Constitution

Malaysia has a written constitution that is closely related to the concept of supremacy of the Constitution. The structure of Malaysia and the powers of its government are provided in the Constitution. The actions of the government and the Ruler must conform to the Constitution (Fernando, 2014). The court can nullify any act or legislation that is inconsistent with the Constitution. On the opposite, the United Kingdom owns an unwritten constitution, a concept where the structure and power of the government and Monarch are prescribed in the combination of ordinary legislation, judicial precedent, and convention (Focused Group Discussion. 2022, December 12). Countries that use unwritten Constitution adopts the concept of Parliamentary supremacy. In a country that adopts an unwritten constitution, any act of parliament that is against the Constitution may not necessarily be nullified by the court.

4.3 Source of Power and Limitations

Malaysia adopted a parliamentary democracy system featuring a constitutional monarchy (per Azlan Shah). The meaning of constitutional monarchy in general is the power of the Ruler is limited within the four walls of the Constitution. The British made use of the Rulers to rule the subjects knowing the spirit of loyalty of the Malay towards the Ruler (Focused Group Discussion. 2022, December 12). They stripped the Rulers of their powers but allowed them to retain those relating to their religion and customs (Mangsor et al., 2021). The British, too, had fought many wars for hundreds of years to curtail the powers of their Kings (Sinnadurai, 2004). So, they extended the concept of constitutional monarchy to this country to suit their interests. The Constitution delineates reserved powers that allow rulers to exercise discretion in specific situations, such as the appointment of the Prime Minister, the withholding of consent to the dissolution of parliament, and the requisition to call for the conference of ruler meetings. As Malaysia also upholds the concept of supremacy of the Constitution, the act of the Ruler that exceeds the boundaries of the Constitution may be challenged on the ground of unconstitutionality (Bari, 2008). Many cases require the intervention of the court to review the power of the Monarch and among

the significant case includes Stephen Kalong Ningkan(1968), Anwar Ibrahim(2021), and Salahuddin Ayub(2021). The court in these three cases had ruled out the unconstitutionality issue.

4.4 Policy-making environment

Historically, rulers in Malaysia, particularly those of the nine Malay states, held considerable power and authority over their respective territories. However, the British colonial influence and subsequent independence led to the development of a constitutional monarchy framework, which aimed to balance traditional royal authority with democratic governance(Focused Group Discussion. 2022, December 12). The Federal Constitution of Malaysia outlines the roles and functions of rulers within this framework, delineating their ceremonial, executive, and advisory functions (Wan Hussain,2021; Rahmat, 2021; Abdul Aziz et al., 2023). The rulers' involvement in policy-making reflects the historical significance of the monarchy and its connection to Malaysia's identity, contributing to a sense of national identity (Muslim, 2020). The role of the Malaysian monarchy in policy-making can be evidenced in several significant events like the decision of Sultan Zainal Abidin the third of Terengganu (1911) to terminate the reward of "uflti emas" to the Kingdom of Siam (Abdullah, 2023). Over time, it has been proven that the intervention of rulers has a positive effect on safeguarding the welfare of the community, such as the intervention of the late Sultan Abdul Halim in the conflict over the maintenance of Lembah Bujang Temple (Syed Ahmad, 2019). The intervention of the Ruler can also resolve conflicts and political disagreements, such as the appointment of the 8th Prime Minister following the resignation of the former prime minister during the pandemic in 2020. The role of YDPA was crucial during the crisis involving the appointment of the Chief Minister of Perlis (2018), Perak (2010), and Terengganu (2008) (Tuanku Jaafar, 2018; Azrae,2020).

In the UK, the monarchy serves as a unifying symbol that transcends ethnic and religious divides, fostering a sense of identity and continuity within the diverse society. These are the significant features of the Westminster system and are modeled by Malaysia. The role of the king in promoting stability is crucial for effective decision-making and governance in the UK (Vern,2019). However, as established under the UK's unwritten Constitution, the modern monarchy emphasises a ceremonial and symbolic role for the Monarch. Nonetheless, certain prerogatives and reserved powers still allow a monarch to influence key aspects of governance.

Findings/Factors that influence the involvement of the Monarch in policy-making environment	Malaysia	UK
Historical	1. The inherent power of the Ruler related to the Malacca Sultanate (Islamic influence) phase. 2. Diminishing of power during the Colonisation phase. 3. Restored power and evolution during pre- and independence phase.	1. The king was subject to the law (Magna Carta 1215 phase) 2. Glorious Revolution of 1688-1689(The English Civil War)
Types of Constitution	Written-Clear provision on Monarchical power and upholds the constitutional supremacy concept. Rigid process in amendment of the Ruler's power in the Constitution.	Unwritten Constitution- adopts the Parliamentary Supremacy concept. Less rigid system in amendment of the Ruler's power in the Constitution
Source of power and limitations	Parliamentary democracy featuring the constitutional monarchy concept. The Constitution remains as the Supreme sources	The UK's unwritten Constitution emphasises a ceremonial and symbolic role for the Monarch. The Parliament is the supreme power.
Policy-making Environment	Other than the discretionary and non-discretionary power provided under the Federal Constitution, the Ruler has inherent powers in policy making.	His Majesty's power in policy-making may only be exercised in accordance with laws passed by Parliament and within the bounds of tradition and precedent.

Table 1: Factors Influencing the involvement of the Monarch in the policy-making environment.

5.0 Discussion

In contemporary Malaysia, rulers' roles primarily focus on ceremonial duties, but their influence extends beyond symbolic gestures. While elected officials hold legislative and executive authority, rulers possess reserved powers allowing them to influence policy-making. Within the context of a constitutional monarchy, rulers in Malaysia primarily hold advisory and symbolic roles. While they do not wield direct legislative or executive power, their input is respected and carries weight, especially in sensitive and critical matters. These can be evidenced in recent occurrences such as the formation of a unity government following the 15th General election hung government and the intervention to resolve support of majority issue in the appointment of the 8th Prime Minister. Although these powers are exercised in accordance with constitutional principles, their impact on shaping the political landscape cannot be understated. There is a significant distinction between Malaysia and the United Kingdom, which is the source of power. If we look into the United Kingdom, all of it was based on history, and the source of power is from the convention, which means the monarchy has little to say since it is a convention. Not just that in the United Kingdom, the supreme law is solely based on parliamentary sovereignty. This means that the power is big, and it comes from convention. However, in Malaysia, although the Monarch's source of power in policy-making is mainly based on the Constitution, the inherent power can be used when necessary. Interpretations of the Malaysian Constitution were made by the judges based on the suitability to the local circumstances consideration, and reference to the Westminster system is only persuasive. The interpretation of the law in the United Kingdom is inherent; meanwhile, in Malaysia, the interpretation of the law is clearly expressed in the Constitution. In contemporary UK politics, the Monarch's influence on policy-making is largely exercised through non-partisan functions. These include the State Opening of Parliament, where the Monarch delivers the Queen's Speech outlining the government's legislative agenda, and the granting of Royal Assent to bills passed by Parliament. While these actions are considered

formalities, they represent important stages in the policy-making process and underscore the monarchy's role in maintaining democratic continuity. The government of the United Kingdom also does not interfere in the affairs of the state. Evaluating the overall findings of this research, it is timely for Malaysia to build its own common law in the interpretation of the monarchical powers. These guiding principles of Malaysian common law must be based on the Malaysian Constitutional structure, acknowledgement of the role of the institution of the Ruler and YDPA's role in the policy-making process and suitability to its culture and local circumstances.

6.0 Conclusion

This study needs some help accessing historical documents relevant to the Malaysian monarchy as major sources are placed in the National Archived in London. In conclusion, the influence of the historical narratives, types of constitutions, and contemporary occurrences on the monarchy's role in Malaysia and the UK has transformed the role of rulers in the policy-making process. There are significant differences between the monarchy role in the UK and Malaysia that restricted the reference to the Westminster model as persuasive only. The recent evolution in Malaysia reflects a delicate balance between historical tradition and democratic governance, contributing to the nation's political stability, unity, and preservation of cultural identity. The role of rulers, while no longer absolute, remains an important part of Malaysia's governance landscape, embodying the rich history and values of the nation. Future studies should further delve in-depth into the role of the Monarch in Malaysia by specific reference to Malaysian local features. The local features for future studies should integrate Malaysian culture and customs and the concept of constitutional monarchy within the Malaysian constitutional framework.

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Paper Contribution to Related Field of Study

This paper forwarded the guidelines and insights on the involvement of the Malaysian and UK rulers in the policy-making environment for references of the policy maker, government, and relevant stakeholders.

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