IS THE FEDERAL SYSTEM ADAPTED TO THE REALITIES OF MALAYSIA?

Part One: Historical, Constitutional and Political Aspects

David Courron

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Many writings about Malaysia have pointed out the nature of its political regime, insisting on the fact that it was ambiguous in that both democratic and authoritarian features developed simultaneously. Others have focussed on how the political system reflected the nature of, and the pressures from, society. Besides many scholars have explained that tensions and conflict would become a major challenge in an ethnically divided society like Malaysia's, while the impact of rapid economic growth on the Malaysian political system has also been debated by many theorists. However, very few have tried to understand why Malaysia as a multi-communal country was simply possible from the standpoint of its federal structure.

Why do we raise such a question? There are at least twenty countries all over the world which have adopted a federal style of government. All of them have very different historical, political, social, ethnic, religious, moral backgrounds. Among these federations,
the United States of America, the Federal Republic of Germany, Switzerland, Canada and Australia seem so familiar that we take for granted that the concept of federalism cannot be related with any other countries and therefore we forget other very interesting federations. Malaysia is one of them. Understanding why federalism has proved to be adapted to the realities of this Muslim former British colony may help to revive the interest in the concept of federalism and its almost unknown developments.

This article aims at understanding to what extent a federal organization of constitutional powers can bring political stability, social peace, ethnic understanding and economic prosperity to a young Asian nation: Malaysia. Throughout this article we give elements of an answer to the following question: to what extent and how far is the federal system adapted to the realities of Malaysia? To achieve our goal we show first that Malaysia has a very long historical tradition of acceptance of differences which prove it could easily develop a federal political system, and second that Malaysia has all the determinants required in a federal system.

After a brief geographical introduction, we move to an analysis of four historical patterns showing how the Malays have long been open-minded and well disposed towards foreign influences as well as trade and cultural exchanges. Then we propose a presentation of the Federal Constitution of Malaysia first outlining four very traditional elements integrated in the working of the constitution and, second, examining the provisions which deal with the machinery of government, parliamentary supremacy and the judiciary in order to show how the Constitution of Malaysia has been able to adapt fundamental federal provisions to former Malay institutions. Finally we introduce some of the main features of the Malaysian political system influenced by overarching racial issues.

In the second part, we shall focus on the Islamic identity of Malaysia, the movement of communal restructuring under the New Economic Policy which helped minorities to participate equally in
the political system through economic development, and finally, we have a look at the particular issues that arose from the integration of Sabah and Sarawak into the Federation of Malaysia.

Geographical and historical aspects of Malaysia which can explain its federal structure

Located just north of the equator, Malaysia (330,434 sq. km) consists of Peninsular Malaysia (on the mainland of Southeast Asia) and the two states of Sabah and Sarawak (on the northwestern side of the island of Borneo)\(^1\) separated by a 650-kilometer span of the South China Sea. Peninsular Malaysia (separated from the Indonesian island of Sumatra by the Strait of Malacca) extends 804 kilometers from its northern border with Thailand to its southern connection—a causeway across the Johore Strait—to the island-state of Singapore, while the two contiguous states of Sabah and Sarawak on the island of Borneo are about 1,120 kilometers long and a maximum of 270 kilometers wide. Distances may be seen as a decisive factor in implementing federalism.

The composition of the population\(^2\) gives another explanation of the choice of a federal structure in Malaysia. Besides the Malays, the dominant ethnic group (50% of the total population) involved in the bureaucracy and agriculture, the main communities are the Chinese (about 20%) and the Indians (about 10%), who are particularly active in the commercial sector. There are also small groups of aborigines called the orang asli (original people) to be found in the deep jungle.

Barbara Andaya analyses four dominant themes which have recurred throughout Malaysia’s history. Each of them illustrates

\(^1\) Peninsular Malaysia has a total land area of 131,794 sq. km, Sabah has 73,711 sq. km and Sarawak has 124,449 sq. km.

\(^2\) Census figures showed 13.46 million in 1980 and 18.3 million in 1991.
Malaysia’s historical predisposition to the federal structure of government. The first theme is “the self-confidence with which Malays have always greeted external influences,” presented by Andaya as “an attribute undoubtedly arising from their long and persistent contact with the outside world,” an ability to select the most useful elements in two separate cultures and make them their own. The Malays, witness to the growing international seaborne traffic which linked Europe and India to the Far East through the Malacca Strait, became active participants in this trade which formed the basis of Srivijaya, one of the most influential maritime powers in Southeast Asia. “This area was exposed to a continuing progression of ideas from abroad, the most suitable of which were adopted and adapted by the local population to suit their own needs.” The British colonial presence in the 19th century, though initially accepted in the same spirit, forced the Malays “to abandon their own slower but less disruptive mode of absorbing outside influences.” Nevertheless when Malaya became independent from Britain in 1957, the Malays had adopted and/or adapted elements of European culture and technical skills while preserving “their earlier identification and intellectual and emotional links with the Islamic world.”

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4 Ibid., p. 299.
5 We may easily compare this historical aspect of Malaysia with the development of another federal nation: Switzerland. Like the Malays, the Swiss learned how to live with each other and how to take advantage of foreign innovations: for instance, the adoption of political and constitutional arrangements from abroad (especially from France) in the Swiss federal constitution of 1874.
7 Ibid., p. 300.
8 “Malaya” refers to the colonial period and the independence (from 1957 until 1963) whereas “Malaysia” refers to the country known as the Federation of Malaysia (since 1963).
The second theme which emerges in Malaysian history, "the ongoing struggle of the center to restrain centrifugal tendencies in outlying territories,"\textsuperscript{10} lies in the geography of the area. Mountain ranges and dense jungles in Peninsular Malaysia have reinforced the separation of the states from one another. The only point of unity between them was often the estuary of a major river network excluding a vast "hinterland" free of central control. As Andaya explains, "each individual area developed independently under its own leaders and was linked loosely to the center through the occasional affirmation of allegiance and acknowledgements of subservience."\textsuperscript{11} The influx of Chinese and Indian migrants created another possibility for fragmentation. So did the inclusion of Sabah and Sarawak into Malaysia "since they were physically and culturally separated from the peninsula."\textsuperscript{12}

These centrifugal tendencies stand at the core of the federal structure of today's Malaysia. "One effective counter to centrifugal forces has been the important role played by the center as the principal reception and redistribution point for goods and ideas. Many outlying areas in the past submitted to the loss of a degree of sovereignty in exchange for these benefits and for the added inducements of prestige acquired through association with a major center and assurance of protection against enemies."\textsuperscript{13} However some areas have never been fully responsive to the center (Sabah, Sarawak, Kelantan), while Singapore chose to sever all ties with the Federation in 1965 when the benefits of being a part of it no longer appeared to outweigh the disadvantages.

\textsuperscript{10} Ibid., p. 300.
\textsuperscript{11} Ibid. Another comparison with early Switzerland's history shows how loose were the links between the several states: some of them had links with two or three states only. All were meeting once a year in a "Parliament" (called Diète or Tagesserzungen) whose decisions were absolutely not compulsory.
\textsuperscript{12} Ibid.
\textsuperscript{13} Ibid., pp. 300–301. In Switzerland as well, the threat of a common enemy constituted the main (and practical) reason why small communities had decided to create a larger union called the Confederation.
"The forces of fragmentation in Malaysia have at times been so great that both the center and the component states have been forced to reconsider the arguments for maintaining the status quo."¹⁴ Nevertheless Malaysia’s leaders have always remained determined to preserve the unity of the Federation through government policies (education and language) aiming “at creating a united people.”¹⁵ Even though centrifugal tendencies remain in the late 1990s Malaysia, there is every reason to believe they will be effectively restrained.

The third recurrent theme suggested by Andaya is “the changing conception of what constitutes Melany or Malay,”¹⁶ which has historically proved to be on the one hand large enough to melt various populations but on the other hand restricted enough to appear as a well-defined nation. Malay refers to the original homeland of the early immigrants from Srivijaya,¹⁷ who used to name themselves that way vis-à-vis other populations. Progressively, Malay became “the ultimate measure of refinement and acceptability,”¹⁸ as well as the means to distinguish Melaka from the other Malay-Indonesian areas. The definition was then expanded in the mid-15th century to include Islam, which became a vital

¹⁴ Ibid., p. 301. Switzerland’s federal experience shows forces of fragmentation too. For example: the war of the “Sonderbund” (1846–1848) divided the Swiss over changing the state organization from a confederal to a federal one. Nowadays, European integration may represent another important risk for fragmentation. Each time the “good will national agreement” of every federal country is engaged in the process of redefinition, the risks this country may fall apart increase.

¹⁵ Ibid. The Malay Archipelago has always been very active in international trade. In the early pre-colonial history of the region the development of flourishing entrepôts placed on the sea route between India and China led to what is known as the Malay maritime kingdoms; among them are Kan-t’o-li, Srivijaya (7th–13th century), Melaka (1400 to 1511).

¹⁶ Ibid.

¹⁷ Located on the Melayu River near Bukit Siguntang in Palembang (Sumatra).

¹⁸ Andaya and Andaya, A History of Malaysia, p. 301.
component of the Malay identity. "Under colonial rule, the term Malay was formalized by the British to distinguish the Malay-speaking Muslims residing on the peninsula and offshore islands from the large immigrant groups of Indians and Chinese."19 When Malaya regained its independence in 1957 "it was suggested that the term be used to designate all those who wished to become citizens of the new nation."20 However, no changes were brought in by the new constitution: a Malay was seen as "one who speaks the Malay language, professes Islam and habitually follows Malay customs."21 Changes came after the formation of Malaysia in 1963. Bornean indigenous groups from Sabah and Sarawak were classified with the Malays of the peninsula for political reasons although they were not Malay in language, religion or culture. Such an anomaly was finally overcome when the term Bumiputra (sons of the soil) was created to refer to both the indigenous peoples of Sabah and Sarawak and the Malays in order to create a united people with a single identity.

"The attempt to incorporate migrant groups into local society"22 is the fourth recognizable theme in the history of Malaysia and of vital importance for Malaysia's ability to survive as a political unity. As Andaya argues, "it may depend on its ability to make ethnic identifications redundant and to create an acceptable new identity."23 As we mentioned earlier, the founders of Melaka successfully established their language, culture and religion as the basis of a new society composed of immigrant and local Malays, orang asli and orang laut,24 standards to which various Indonesian

19 Ibid., p. 302.
20 Ibid.
21 Ibid. Since the 1970s the Islamic fundamentalist revival in Malaysia known as the Dakwah movement has made Islam the crucial determinant of any true Malay.
22 Ibid., p. 303.
23 Ibid.
24 Orang asli (original people): indigenous groups living on the Malay peninsula excluding ethnic Malays. Orang laut (people of the sea): sea and river peoples in the western half of the Malay-Indonesian archipelago.
groups (Minangkabau, Bugis, Javanese) had conformed easily thanks to their basic similarity of lifestyles with the Malays and their common religion. Moreover, when they arrived in the peninsula, they entered lands governed by Malays and came to recognize Malay authority as legitimate. Such a smooth absorption of migrant groups, however, is no longer conceivable for the two largest minorities in modern Malaysian society. The Chinese and Indians, who differ physically, culturally, as well as in religious belief, came into a British-governed peninsula where they regarded the Malays as basically in the same relation as themselves while acknowledging British authority and performing a role according to British colonial prescriptions. In the post-colonial period, this ethnic compartmentalization in the colonial society has proved a major obstacle to the creation of a united people. When the Malays were restored to their former positions of authority and the Chinese and Indians were to regard them as their rulers, the task facing the government was made far more difficult. It also became obvious that “advocating a style of rule which would ignore the rights and needs of the migrant communities” would lead to a total failure. How to melt large minorities into a new “Malaysian” identity was one of the key issues discussed after independence, although no actions were seriously undertaken until Singapore’s secession\(^2\) and the tragic ethnic disturbances of May 1969\(^2\) urged that

\(^2\) In the Singapore elections of September 1963 and the Malaysian elections of 1964 the Singapore-based PAP battled with the Malayan Alliance in a struggle that appeared increasingly as one between non-Malays and Malays. The threat of communal violence was the crucial factor in the government’s decision to separate Singapore from the Federation of Malaysia.

\(^2\) The 1969 Federal elections fought on the issues of education and language (each ethnic group wishing to preserve its interests against the encroachment of the others) were a severe blow to the Malayan Alliance (the leading movement). Non-communal new parties like the Gerakan Rakyat Malaysia (Malaysian People’s Movement) and former PAP reborn as the Democratic Action Party (DAP) took to the streets in a victory celebration but had to face a counter-rally which deteriorated into uncontrolled violence. Order was restored after four days of bloody fighting. To deal with the riot, an emergency was proclaimed and Parliament was suspended for the next two years, during which the country was governed under emergency laws.
long-term measures should be taken in order to maintain the unity of the federation.

The essential role of traditional elements in the working of the Malaysian Constitution

What are the differences and the links between the most commonly adopted definition of federalism and Malaysian federalism? To what extent can we argue that the Constitution of Malaysia is a federal constitution? The organization and constitutional mechanisms of a federal system, though very simple in their concept, refer to at least two levels of sovereignty, federal (the federation) and subnational (the federated states), which places one on top of the other to make an extremely complex political, constitutional and legal structure. In addition, the choice of a federal political system aims at allowing different peoples, ethnic groups, various linguistic or religious minorities to live together in a mutual respect of their identities and interests while creating a nation that transcends these differences.

If we focus on the case of Malaysia, all of its thirteen states are ruled by their own institutions and are equally represented in a Senate, whereas the people of Malaysia are represented in a

27 The Constitution of Malaysia was adopted on Independence Day (Merdeka Day) in 1957. The present state of the Federation, after the withdrawal of Singapore, was established September 16, 1963 (Malaysia Day).

28 We use the generic term of “state” to define all the subnational entities constituting the Federation of Malaysia, although some are sultanes (Perlis, Kedah, Perak, Selangor, Johore, Negeri Sembilan, Pahang, Trengganu and Kelantan).

29 In Negeri Sembilan, literally nine countries, the Ruler known as the Yang di-Pertuan Besar is elected by the four Ruling Chiefs (Undang) and the Tunku Besar of Tampin. He acts on behalf of himself and the Ruling Chiefs in accordance with the constitution of that state. Like Switzerland’s canton of Grisons (Graubunden) Negeri Sembilan gives a great deal of autonomy to its inner divisions, then establishes a third level of political entities.
House of Representatives according to the population percentage of each state. The Malaysian federal executive has two heads: a Prime Minister who is usually chosen from among the majority in the House of Representatives rules the country, and an honorific Head of State who embodies the Federation as a whole in its permanence. What makes Malaysian federalism unique is that this “Chief” is an elected king. Malaysia is then a federal constitutional monarchy. Such a particular organization enables the Head of State to play a fundamental religious role in a Federation whose *raison d'être* lays in the coexistence of several communities observing different religions.

As wrote Tun Haji Mohd. Salleh bin Abas, formerly Lord President of the Federal Court of Malaysia, “the Malaysian Constitution is not the product of an overnight thought. [...] if the provisions which deal with the machinery of government, parliamentary supremacy and the judiciary and those which deal with citizenship are excluded, a good number of the remaining provisions deal with matters which can be described as traditional in the sense that these matters have been in practice long before the British colonial administration itself, have passed through several successive constitutional and political developments and have finally been retained in the present Constitution.”

These traditional elements, the Islamic religion, the Sultanate (or Rulership), the Malay language and Malay privileges are essential for the stability and progress of Malaysia. They deserve a closer look at the way in which they influence the federal institutional organization of Malaysia.

The basic element on which Malaysian federalism is built, not to say its justification, is Islam. Religion has a very strict...

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definition in the constitutional organization, for it represents one of the most sensitive lines of division in Malaysian society. "The notion of a non-Muslim Malay is alien to the Malay mind."\textsuperscript{31} That is the reason why the Federal Constitution never forgets to mention specific religious arrangements, which are absolutely compulsory for the general balance of the political system. "This complete identification of religion with race is so fundamental to Malay thought that the religion of Islam has become an important constituent element in the legal and constitutional definition of Malay."\textsuperscript{32} Article 160 (2) of the Federal Constitution defines a Malay as "a person who professes the religion of Islam, habitually speaks the Malay language [and] conforms to Malay custom [...]."\textsuperscript{33} Throughout Malaysia’s history the Islamic religion has always been left undisturbed. Even during the colonial era when the British made sure through a series of treaties of peace and friendship that their advice would prevail upon the Malay leaders in all matters relating to the government of the country, questions connected with the religion of Islam, mosques, and native chiefs have been excluded from the sphere of British advice.

As a matter of fact, the provision of Part I entitled "The States, Religion and Law of the Federation," Article 3 (1) of the constitution declaring that "Islam is the religion of the Federation"\textsuperscript{34} represents a principle or a conviction held by the Malays for a long time. However "the enacting of the Islamic religion as the religion of the Federation has to take into account the practice of other faiths also."\textsuperscript{35} Therefore Article 3 (1) provides a balancing clause in that "other religions may be practiced in peace and harmony in any part of the Federation."\textsuperscript{36} According to what

\textsuperscript{31} Ibid., p. 5.
\textsuperscript{32} Ibid., p. 6.
\textsuperscript{34} Ibid., p. 1.
\textsuperscript{35} Tun Haji Mohd. Salleh Bin Abas, "Traditional Elements ...", p. 7.
\textsuperscript{36} Federal Constitution, op. cit., p. 1.
precedes, we can describe the religious role of the King called the Yang di-Pertuan Agong as follows: on the one hand some states not having a Ruler “make provision for conferring on the Yang di-Pertuan Agong the position of Head of the religion of Islam in that State,” \(^{37}\) and on the other hand the Yang di-Pertuan Agong must make sure that the other religions can be practiced in peace and in harmony (which means without discrimination although they are not the religion of the Federation).

The importance of religious issues in the preservation of social stability requires more constitutional commitments. Another statement in Federal Constitution Part II entitled “Fundamental Liberties” confirms and guarantees religious freedom. Article 11 is written in such a way that “every person has the right to profess and practice his religion and [...] to propagate it, [...] [and that] every religious group has the right to manage its own religious affairs, to establish and maintain institutions for religious or charitable purposes, and to acquire and own property and hold and administer it in accordance with law.” \(^{38}\) However, limits to religious freedom can be found in three directions: first the need to preserve public order, public health and morality; second religious freedom does not mean that any person can be compelled to pay any tax; and third the right to propagate a religion can be controlled or restricted if such a propagation is made among persons professing the religion of Islam.

Since Islam is accepted as the religion of the Federation, it follows that “it shall be lawful for the Federation or a State to establish or maintain or assist in establishing or maintaining, Islamic institutions or provide or assist in providing instruction in the religion of Islam and incur such expenditure as may be necessary

\(^{37}\) Ibid., p. 2. Article 3 (3) provides that “The Constitution of the States of Malacca, Penang, Sabah and Sarawak shall each make provision for conferring on the Yang di-Pertuan Agong the position of Head of the religion of Islam in that State.” This provision has been extended to the Federal Territories of Kuala Lumpur and Labuan (Article 3 (5)).

\(^{38}\) Ibid., pp. 6–7.
for the purpose.” Because Islam has the status of the religion of the Federation, because there is a ruler on top of each state religious hierarchy, and because Malaysia is a multi-ethnic and multi-religious country, Federal Constitution Part IV entitled “The Federation” organizes a federal elective monarchy whose counterpart could be found in only one other Muslim federation: the Union of Arab Emirates.\(^{39}\)

For centuries rulership has been an essential element in Malay society. Like Islam, the rulers, also called sultans, were always accepted by the British colonial power. During the colonial period they were considered “as sovereign Rulers and had complete power within their respective States, although they were required by a series of treaties with Great Britain to accept the advice of British officers. [...] When independence was eventually granted to Peninsular Malaysia the institution of rulership was simply continued but with some modification in order to bring it in line with the concept of parliamentary democracy and independence.”\(^{40}\)

The Malaysian Monarchy is a unique institution. As explains Y.A.M. Raja Azlan Shah, formerly Lord President of the Federal Court of Malaysia, now Sultan of Perak, “Malaysia has one elected King (Yang di-Pertuan Agong), nine hereditary Rulers and four appointed Yang di-Pertuan Negeri (formerly known as Governors). The King is elected but he is a hereditary Ruler in his own State.

\(^{39}\) We would like to mention the Union of Arab Emirates for it may allow interesting comparisons with Malaysia insofar as it is a Muslim federal country. The UAE is a federation of seven separate emirates. Specific powers are delegated to a central government, while other powers are reserved for the individual member emirates. The hereditary rulers of each individual emirate make up the Supreme Council of Rulers, which is responsible for electing the president of the UAE, sanctions legislation, establishes general policies and also elects the Council of Ministers. Moreover, while some secular codes have recently been introduced by the UAE government, Islamic law still plays a large role in the legal sector.

He is elected not by the universal suffrage, as in the case of Members of Parliament, but by the other hereditary Rulers. [...] he can be removed."

Three kinds of functions are devolved to the Yang di-Pertuan Agong by the Federal Constitution. They deal with the symbolic functions the King embodies, the constitutional status of the institution of rulership and the Yang di-Pertuan Agong’s political role and obligations.

First, the Yang di-Pertuan Agong embodies symbolic functions such as acting as the symbol of unity. Being the focal point for uniting the various communities in the country makes him the keystone of the Federation of Malaysia. As Tun Haji Mohd. Salleh bin Abas wrote, “the Malays, Chinese, Indians and other races look to him as the custodian of their respective interests and the repository of their hopes.” The Federal Constitution has indeed entrusted him “the responsibility of [...] safeguarding the special position of the Malays and the natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities [...]” (Article 153 (1)).

Second, the Yang di-Pertuan Agong is also a symbol of justice and fair play for the constitution provides that “the Chief Justice of the Federal Court, the President of the Court of Appeal and the Chief Judges of the High Courts and [...] the other judges of the Federal Court, of the Court of Appeal and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister,

41 Y.A.M. Raja Azlan Shah, “The Role of Constitutional Rulers in Malaysia” in Trindade F.A. and H.P. Lee (eds.), The Constitution of Malaysia, pp. 76–91. Each of the nine Malay states has a hereditary ruler who reigns for life. In Perlis, the ruler is known as the Raja and in Negeri Sembilan he is called the Yang di-Pertuan Besar. In other states they are known as sultans. The four other states are governed by a governor (the Yang di-Pertuan Negeri) appointed for a four-year-term by the Yang di-Pertuan Agong after consultation with the Chief Minister of the State concerned.


after consulting the Conference of Rulers” (Article 122B (1)).

Finally, although such provisions are not clearly stated in the constitution, as the Fountain of Honour, he is empowered to grant honours, awards and decorations to various people who have rendered distinguished service to the country.

Second, the Federal Constitution in its Part IV Chapter One Article 32 (1) presents the king as “The Supreme Head of the Federation” of Malaysia in the following terms: “The Yang di-Pertuan Agong [his consort is called Raja Permaisuri Agong] shall be elected by the Conference of Rulers for a term of five years.” Article 33 (1) provides that “there shall be a Deputy Supreme Head of the Federation” who is called the Timbalan Yang di-Pertuan Agong and elected according to the same way as the Yang di-Pertuan Agong. Both the Supreme Head and the Deputy Supreme Head of the Federation are chosen among their fellows who constitute the “Conference of Rulers” (Rajlis Raja-Raja) according to Federal Constitution Part IV Chapter Two Article 38. As Tun Haji Mohd. Salleh bin Abas points out, “the idea for the setting up of the Conference of Rulers started with the Malayan Union Constitution which established the Council of Sultans. [...] it was not abandoned but continued by the Federation of Malaya Agreement 1948 with the setting up of the Conference of Rulers.” This Conference, which is the highest assembly of the Islamic religion in Malaysia, has three main functions: first, as we wrote earlier, “to elect [...] the Yang di-Pertuan Agong and the Timbalan Yang di-Pertuan Agong, [second] to agree or disagree to the extension of any religious acts, observances or ceremonies

44 Ibid., p. 82.
46 Ibid., p. 19. The four heads of state and the two governors of the Federal Territories who are not rulers cannot be elected by the Conference of Rulers as the Yang di-Pertuan Agong.
47 Ibid.
48 Ibid., p. 21.
to the Federation as a whole, [and third] to consent or withhold consent to any law and to make or give advice on any appointment which under this Constitution requires the consent of the Conference or is to be made by or after consultation with the Conference.”\textsuperscript{50} In order to strengthen monarchy (the institution of rulership), the constitution makes provisions regarding the sovereignty and immunity of the Rulers as well as the order of precedence of the Yang di-Pertuan Agong. The Federal Constitution provides that “[the Yang di-Pertuan Agong] shall not be liable to any proceedings whatsoever in any court except in the Special Court” (Article 32 (1)),\textsuperscript{51} that he “shall take precedence over all persons in the Federation” (Article 32)\textsuperscript{52} and that “the Rulers shall take precedence [...] among themselves, in accordance with the dates on which they acceded as Rulers [...]” (Article 70 (2)).\textsuperscript{53} Besides ensuring the continuance of the institution of Sultanate, the status of Ruling Chiefs and other Malay customary dignitaries and titles provisions “guarantee the right of a Ruler of a State to succeed and to hold, enjoy and exercise the constitutional rights and privileges of Ruler of that State in accordance with the Constitution of that State” (Article 71(1)).\textsuperscript{54} No amendment can be made to the preceding provisions relating to the institution of rulership without the consent of the Conference of Rulers (Article 159 (5)).

Finally, Malaysia’s political system can be defined as a federal constitutional monarchy. As a consequence of adopting the principle of constitutional monarchy follows the second kind of provisions relating to the political role and obligations of the King. “The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong and exercisable [...] by him or by the Cabinet or any Minister authorised by the Cabinet” according to

\textsuperscript{50} Federal Constitution, op. cit., pp. 21–22. Article 38 (2).
\textsuperscript{51} Ibid., p. 18.
\textsuperscript{52} Ibid.
\textsuperscript{53} Ibid., p. 43.
\textsuperscript{54} Ibid.
Part IV Chapter Three entitled “The Executive” (Article 39). As Supreme Head of the Federation the Yang di-Pertuan Agong’s political powers can be compared with those of any head of state in any parliamentary system. Among such powers we can remind that he exercises “his functions under this Constitution [...] in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet” (Article 40 (1)), that “he may act in his discretion in the performance [of very political functions such as] the appointment of a Prime Minister (Perdana Menteri), the withholding of consent to a request for the dissolution of Parliament [and] the requisition of a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Royal Highnesses, and any action at such a meeting [...]” (Article 40 (2)), that he is “the Supreme Commander of the armed forces of the Federation” (Article 41), that he “has the power to grant pardons, reprieves and respite[s] to convicted persons [...]” (Article 42 (1)) and that he has the power to make important appointments not only under the Constitution but also under Acts of Parliament (appointment of judges, chairmen and members of Services Commissions and certain heads of Government Departments). Another political power of the Head of the Federation comes from the Westminster political organization: Article 43 (1) provides that “the Yang di-Pertuan Agong shall appoint a Cabinet of Ministers (Jemaah Menteri) to advise him in the exercise of his functions.” He “shall first appoint as Prime Minister (Perdana Menteri) to preside over the Cabinet a member of the House of Representatives who in his judgement is likely to command the confidence of the majority of

55 Ibid., p. 23.
56 Ibid.
57 Ibid.
58 Ibid., p. 24.
59 Ibid.
60 Ibid., p. 26.
the members of that House” (Article 43 (2)). As far as the ministers (Menteri) are concerned they are appointed on the advice of the Prime Minister. Article 43’s provisions imply, then, another Westminster behavior according to which “the Cabinet shall be collectively responsible to Parliament” (Article 43 (3)), so that “if the Prime Minister ceases to command the confidence of the majority of the members of the House of Representatives [...] the Prime Minister shall tender the resignation of the Cabinet” (Article 43 (4)). To be as complete as possible about the role of the Yang di-Pertuan Agong we may mention Article 44 provisions which explain that he is one of the three constituent elements which make up the federal legislature along with the two Houses of Parliament.

Among the four traditional elements listed by Tun Haji Mohd. Salleh bin Abas, the Malay language (called Bahasa Malaysia) plays a role of great importance in cementing national unity. The use of the Malay language not only as a vernacular mother tongue but as an official language as well has long been a reality in Peninsular Malaysia. Tun Haji Mohd. Salleh bin Abas quotes a letter written by the Sultan of Johore to the Governor of Singapore in 1914 which illustrates the liveliness of this language: “I have also to request Your Excellency’s acceptance of the principle that Malay and English should be accepted as official languages for use

61 Ibid. Since attaining independence in 1957 there has not been any problem regarding the appointment of the prime minister, first because the same party has remained in power, having always won the general election with a sufficiently big majority, and second because when the party chooses its leader it is always with the understanding that if the party comes to power, he would be the Prime Minister. As argues Y.A.M. Raja Azlan Shah, “at the federal level, the role so far played by the Yang di-Pertuan Agong in appointing the Prime Minister, has been no more than giving constitutional endorsement to the decision of the party in power.” Y.A.M. Raja Azlan Shah, “The Role of Constitutional Rulers …”, p. 80.


63 Ibid., p. 27.

(18)
in my courts of Justice and in all Departments of my Government. In the case of the Malay written language the Jawi character should be given this official recognition.”

During the British colonial period, the Malayan Union and the Federation Agreement, although Malay was used in certain spheres of government activities such as the Council of Sultans (former equivalent of today’s Conference of Rulers), the State Council and the Settlement Council, every document came to be written in English. As Salleh bin Abas wrote, “the years after Second World War saw a progressive erosion of the official use of the Malay language which had to give way for the sake of convenience and expediency to the supremacy of the English language.”

After Malaysia regained independence in 1957, its leaders enacted constitutional provisions to state that “the national language [should] be the Malay language” (Article 152 (1)).

However, the Federal Constitution does not express clearly that the Malay language shall be used for official purposes. In fact the terms “National Language of the Federation” implies two consequences: first, Malay is the language that has to be used for all official purposes, for any purpose of the Federal Government is an official purpose, and second, all other languages, although they can be taught and learned, can be used only for purposes “otherwise than for official purposes.” According to Federal Constitution Article 152 (6), “official purpose means any purpose of the

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65 Ibid., pp. 9–10.

66 Federal Constitution, op. cit., p. 106. The text adds: “Provided that no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and nothing in this Clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.”

(19)
Government, whether Federal or State, and includes any purpose of a public authority.” 

Actually, this definition has led to very complex interpretations of the constitutional provisions enacting federal protection to the use and study of the language of any other community in the Federation. In 1981, a Federal High Court decision gave a restrictive interpretation of Article 152, establishing that the minority ethnic groups in the country have no right to teach or learn in their own languages and therefore that there is no constitutional right to teach or learn in any language other than the official language in a university be it private or public.

Even though such a restrictive interpretation of the constitution may seem to threaten the cohesion of the Federation of Malaysia, while preventing the minorities to keep their cultures and languages alive through education, it shows on the contrary the great concern among authorities “at the unification of the various communities into one single nation by means of a common language.” The issue of Malay as the official language of the Federation offers a good example of how the federal structure of Malaysia is subject to a permanent fragile balance between the strengthening of the Malay identity of the country towards other nations and the respect of inside minorities identities.

The fourth traditional element in the working of the Malaysian Constitution deals with the same kind of sensitive issue as the Malay language’s national (official) position. Malay privileges indeed are often regarded as an issue which may provoke feelings

67 Ibid., p. 107.
68 See Merdeka University Berhad v. Government of Malaysia (1981). In this case, the Government refused to grant approval to the establishment of the private Merdeka University because its use of Chinese as a medium of instruction was against national education policy. The Federal High Court argued that a university, be it public or private, is a public authority and therefore its purpose would be an official purpose excluding the protection of Article 152 (1) a.
of ill-will between Malays and other ethnic groups and therefore jeopardize the stability of the country as happened in May 1969 race riots. Before Malaysia’s independence, there was no need to enact such provisions in favour of Malay inhabitants either in the treaties or in the constitution because “the country being a Malay country, no one at that time questioned the rights and privileges enjoyed by the Malays.”

However, British government policies in the country (mining, estate, plantations, and open-door immigration) eroded Malay rights and privileges so that they could not have competed any longer both economically and educationally with the other immigrants. This is the reason why Federal Constitution Article 153 (2) provides that the Yang di-Pertuan Agong is required within the constraints of the constitution and federal law to carry out a policy of “[safeguarding] the special position of the Malays and natives of any of the States of Sabah and Sarawak and [...] [ensuring] the reservations for [them] of [...] positions in the public service (other than the public service of a State) and scholarship, exhibitions and other similar educational or training privileges or special facilities [...] and, when any permit or license for the operation of any trade or business is required by federal law [...] of such permits and licenses.”

Moreover, other provisions concern Malay reservation lands and Malay enlistment in the Regiment.

Even though these Malay privileges may be a threat to the cohesion of the Federation of Malaysia, they are strongly counterbalanced by the legitimate interests of other communities limited by a number of constitutional provisions which clearly show authorities’ concern for peace and stability. Among these rights we may cite the right to acquire Malaysian citizenship, to profess and practice

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70 Ibid., pp. 10–12.
72 Ibid., pp. 53–56. Articles 89 and 90 protect Malay reservation lands from being dealt with by non-Malays.
73 Ibid., pp. 4–5. Article 8 (5) f authorizes enlistment of Malays in the Malay Regiment to the exclusion of non-Malays.
one's own religion, to use one's own ethnic languages and especially not to be discriminated against.

Fundamental federal provisions in the Malaysian Constitution

The elective monarchy system in Malaysia represents a complex balance between the religious chief of a multi-ethnic federation, whose constitutional provisions try to settle political and social compromises, and the Westminster democratic system within a federal structure. In order to find out what the Malaysian constitution shares with other federations, we now explain to what extent it is correct to qualify the Constitution of Malaysia as a federal system according to the provisions, which deal with the machinery of government, parliamentary supremacy and the judiciary.

As with many other former British colonies, Malaysia has been granted a federal constitution within a Westminster form of government. Like the Constitution of Australia, the Malaysian political system can be understood as an election policy speech and a political compromise: the policy speech tries to reconcile what seems to be irreconcilable whereas it allows, like any vague policy speech, a lot of interpretations and contradictions. The present Prime Minister, Dr M. Mahathir, seems to excel in this environment. Such a constitution provides of course answers, which are not efficient answers, every time, but more simply deferrals of the issues until there is an emergency.

To give a very brief definition of the Constitution of Malaysia we may say that it is a complex equilibrium between a State religion, a multi-ethnic society and two specific forms of government: federalism and the Westminster parliamentary system. As a result struggles do appear natural not only in religious, ethnic or linguistic matters but also between the prerogatives belonging to
the (federated) states and those assigned to the Federation (the Federal State). Among the 14 Parts and 181 Articles that form the Constitution of Malaysia 7 Parts deal with the federal form of government and one Part deals with the particular issues of Sabah’s and Sarawak’s integration.  

As in many federal constitutions the first article refers to the states which are the *raison d’être* of a federation considered from a legal perspective. Article 1 (2) presents all of them: “the States of the Federation shall be Johore, Kedah, Kelantan, Malacca, Negeri Sembilan, Pahang, Penang, Perak, Perlis, Sabah, Sarawak, Selangor and Trengganu.”  

Two Federal Territories are established, one in Kuala Lumpur (the capital district) and the other in Labuan (in Borneo).

In Part V, which is devoted to “The States,” Article 71 (1) provides that “the Federation shall guarantee the right of a Ruler of a State to succeed and to hold, enjoy and exercise the constitutional rights and privileges of Ruler of that State in accordance with the Constitution of that State [...]”. The privileges of a Legislative Assembly are protected by another article (72 (1)) in the following terms: “the validity of any proceedings in the Legislative Assembly of any State shall not be questioned in any court.” Consequently we can argue that the sovereignty of each state is recognized, which creates the legal conditions of existence of a federal structure.

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76 Ibid., pp. 43–44.  
77 Ibid., p. 45.
Both levels of sovereignty (the federation and the states) are organized in a well-balanced parliamentary system, mainly described in Part VI “Relations between the Federation and the States”, whose efficiency resides in “the Legislative authority of the Federation [...] vested in a Parliament which [...] [consists] of the Yang di-Pertuan Agong and two Majlis (Houses of Parliament) to be known as the Dewan Negara (Senate) and the Dewan Rakyat (House of Representatives)” (Article 44).78

The Senate constitutes an essential pillar of federalism which protects subnational entities because it represents equally all the States of the Federation of Malaysia. Article 45 dealing with the description of the composition of the Senate provides how many members shall be elected and appointed: “two members for each State [...], two members for the Federal Territory of Kuala Lumpur and one member for the Federal Territory of Labuan [...] appointed by the Yang di-Pertuan Agong” (Article 45 (1)).79 Moreover, the Yang di-Pertuan Agong must appoint “forty members who in his opinion have rendered distinguished public service or have achieved distinction in the professions [...] or are representative of racial minorities or are capable of representing the interests of aborigines” (Article 45 (2)).80 The constitution provides also that the three-year term Senate “shall not be affected by a dissolution of Parliament” (Article 45 (3)).81 According to these federal statements there is provided a list of matters reserved to State Legislatures. This “State List,” which has been added in the Ninth Schedule, refers to very local subjects such as Islamic and personal laws, family laws, land and agriculture, local administration, local social matters, roads and local infrastructures. These matters are not very large and are similar to a more

78 Ibid., p. 28.
79 Ibid., p. 29.
80 Ibid.
81 Ibid.
extended decentralization (like in France). However, the structure of Malaysia is a real federal one.

The House of Representatives stands for the democratic pattern “imposed” by the Westminster parliamentary model uniting the Federation in a single nation. The constitution presents the composition of the House of Representatives, which represents the people as a whole. Although its members are elected on the base of each state population, this House of Representatives goes beyond the federal fact and is the link that erases all the differences: the federation as a whole, the people as a whole.

We can then argue that very fundamental federal provisions undoubtedly are to be found in the Malaysian Constitution. However, if we take a closer look at the federal conception of the legislative powers, we might suspect a lack of Federal Spirit in this constitution. On the one hand, the constitution provides that first “in exercising the legislative powers conferred on it by this Constitution, Parliament may make laws for the whole or any part of the Federation and laws having effect outside as well as within the Federation,” (Article 73a)\(^2\) and second, “the Legislature of a State may make laws for the whole or any part of that State” (Article 73b).\(^3\) On the other hand, the same constitution includes powers to the Parliament in order to legislate for states in certain cases like treaty, uniform laws, Islamic laws, etc. Finally, the obligations of states towards the federation are dealt with in this way: “the executive authority of every State shall be so exercised, as to ensure compliance with any federal law applying to that State; and as not to impede or prejudice the exercise of the executive authority of the Federation” (Article 81).\(^4\) These contradictory constitutional provisions should be regarded as adaptations of federalism to one of Malaysia’s most important realities, which Harold Crouch described as “the development of a repressive-responsive regime

\(^2\) Ibid., p. 45.
\(^3\) Ibid.
\(^4\) Ibid., pp. 48–49.
that can be called neither democratic nor authoritarian but contains elements of both.”

This notwithstanding, the Constitution of Malaysia creates an “umpire” which is always known as playing a fundamental role in preserving the balance of forces and powers between the federal state and the states. Even though every federal constitution provides such an umpire to protect the states from a general trend towards more centralization of powers in the hands of the federal state, in some cases it may be used to accelerate it, as in the United States and in Malaysia, depending on the issue. In fact, Malaysia Federal Court’s interpretations of the constitutional provisions show a much greater concern for preserving the unity of the multi-ethnic society than the prerogatives of the federated states.

The Judiciary is defined in its structures and powers in Part IX of the Constitution. As there are two geographical entities, there are two High Courts, one in Peninsular Malaysia, the other in Borneo. Federal Constitution Articles 121 and 122 provide that “there shall be two High Courts of co-ordinate jurisdiction and status” except within the jurisdiction of the Syariah Courts (Islamic courts). On top “there shall be a court which shall be known as the Mahkamah Rayuan (Court of Appeal) [which] shall have the following jurisdiction […] to determine appeals from decisions of a High Court or a judge thereof [and] there shall be a court which shall be known as the Mahkamah Persekutuan (Federal Court).”

The Federal Court jurisdiction is to determine appeals from decisions of the Court of Appeal, of the High Court or judge thereof. “The Federal Court shall, to the exclusion of any other court, have jurisdiction to determine in accordance with any rules of court regulating the exercise of such jurisdiction any question whether a

86 Federal Constitution, op. cit., p. 79.
87 Ibid., pp. 79–80.
law made by Parliament or by the Legislature of a State is invalid on the ground that [...] it has no power to make laws [...]” in such matters. But the most important point lies in the power of the Federal Court to discuss “disputes on any questions between States or between the Federation and any State.” The Federal Court covers all the aspects of the federal umpire: it acts in all matters such as treaty, representatives of other countries, conflicts between States as well as interpretation of the Constitution (Article 128 (2)).

Main features of the Malaysian political system influenced by the overarching racial issues

Since the bloody racial fighting of May 13, 1969, Malaysian political leaders have realized that politics of confrontation are out of place and would lead to nothing but undesirable results, and that “the success of the Federation depends largely upon proper maintenance of the delicate balance between the special position of the Malays and the legitimate interests of other communities.” What are the different lines of conflicts and oppositions in present Malaysian society and what are the ways of evolution of the nation’s federal system that we can understand from them?

The Malaysian political system has evolved over the last fifty years. “Between periods of turmoil and struggle were periods of relative peace, but in both cases the cumulative effect was to stimulate new patterns of social, economic, and political change. The nationalist struggle, the attainment of Malayan independence, [...] and the May 1969 racial riots [...] were all contests that shaped political institutions and tested the mettle and innovative

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88 Ibid., p. 86. Article 128 (1) a.
89 Ibid. Article 128 (1) b.
capacities of the country's leaders." The evolving political system reflected the changing economic and social patterns but also became a determining factor in meeting those challenges. Political leaders, by mobilizing public support and utilizing the political-administrative system, gained increasing capability to shape the direction and content of social, economic, and political change. There was always an interactive relationship between leaders and followers depending on many factors such as the style and character of leadership, the nature and capabilities of public institutions, the structure of conflict and the nature of the political culture which shapes the behavior of both the public and its elites.

The main tensions in society can allow us to discover how the various federal structures in Malaysia have adapted themselves to these social realities while the Second Generation of politicians was coming into office. We begin with some of the basic social and economic factors, which shape the environment within which the political system operates.

There have been no significant changes in the party system. Indeed, from the very first election in 1952, "the party system has been organized to mobilize voters along ethnic lines. Even the parties that claimed to be" non-communal "tended to acquire a predominately communal base of support, even when some parties created a multi-ethnic leadership echelon". The ethnic pattern of political mobilization was set by the mass parties and by the ethnically defined government policies, which these parties pursued after they came to power. Over time, an ethnic political coloration was imposed on all parties regardless of their ideological predilections. After the first election in 1952, the basic pattern of political mobilization became established and has persisted without fundamental change ever since. "The government's majority support

92 Ibid.

(28)
has been based on the Alliance pattern of ethnic parties united through inter-elite negotiation. Although the Alliance system appeared to be particularly fragile when it was formed, it has proven to be remarkably persistent and a stable base of public support over the period of 40 years despite recurring cycles of political conflict and crisis.

The Alliance bargaining process became crucial to the whole political system. “The leader of the coalition, who also automatically became Prime Minister, not only headed UMNO but also controlled and defined the process of inter-elite bargaining within the multi-party coalition. As a consequence, the role of the Prime Minister was always performed simultaneously by one person who had the problem of balancing multiple, often contradictory roles.” Any leader had to give first priority to his leadership of the Malay community so as to retain support from the UMNO party machine. At the same time, the leader had to sustain an image of being a fair and conciliatory national leader who could listen to diverse political views and resolve often-intense political differences. Without inter-ethnic accommodation and bonds of elite empathy across ethnic boundaries, the minimum of consensus necessary to sustain both public and parliamentary support could rapidly erode, placing the government in jeopardy and thereby creating an extremely volatile political crisis threatening the federal structure of the country. Following the 1969 crisis, multilateral elite bargaining within the Barisan Nasional was virtually abandoned. In its place was substituted a fragmented series of bilateral negotiations between

93 The National Alliance or Barisan Nasional system depends on a coalition of ethnically based parties such as the powerful dominant UMNO (United Malays National Organization).

94 Means, Malaysian Politics ..., pp. 275–322.

95 See the 1990 election results following the UMNO split.

96 Means, Malaysian Politics ..., pp. 275–322.

97 Tunku Abdul Rahman facilitated candid political exchanges and fairly free multilateral discussion of political alternatives.
the prime minister and the leaders of constituent parties in the ruling coalition. When Tun Razak became prime minister, inter-elite bargaining continued, but it became focussed on the role of the prime minister who dispensed favours, patronage, and occasional policy concessions in a web of bilateral arrangements and agreements designed to further the policy agenda of the prime minister and to hold the government’s coalition together. As the task of building political support became more complex and difficult, prime ministers, particularly Dr. Mohamad Mahathir, demanded ever more prerogative powers and large increases in discretionary distributive resources to reward their supporters and to punish or withhold benefits from their political foes and detractors. Malaysian parties have not been noted for their internal party democracy. In part, this has been because party leaders needed constituent support while also retaining freedom of action for intra-party manoeuvres and political bargaining. This tactic will in the future maximize their political bargaining power in Malaysia’s multi-ethnic and multi-party system. For party leaders, open popular democratic participation in the formulation of policy options merely dissipates political power and impairs the capacity to strike favourable agreements. “The pattern of benevolent authoritarianism and elite-dominated politics was followed by all major parties in the Malaysian political system. These authoritarian leadership patterns derived in part from the logic of ethnic political mobilization and the processes of inter-elite bargaining especially the prevailing style operating within the [Alliance].”

Here is also a factor influencing the federal system of Malaysia in adapting it to the realities of ethnic divisions.

Just as the political party system became mobilized along ethnic lines, so has the political culture of the country developed within separate ethnic compartments. Attitudes concerning political

98 Abdul Razak Hussein at that time.
power, political competition, the rights of citizens and minorities, and the capacity to empathize across ethnic boundaries become important. That the Malays and the non-Malays would have different public attitudes, political culture, beliefs, and behavioural patterns by itself poses no irresolvable problem, so long as the separate communities can also develop a minimum common consensus on the legitimate institutions, processes, and principles for the nation’s governance: this is federalism’s main task in a country like Malaysia.

In recent years, Malaysia’s leaders have become preoccupied with shaping and manipulating public attitudes and beliefs. Malaysian politics may be characterized as a “confrontation of two incompatible cultures.”¹⁰⁰ Not only do the Malay and the Chinese have different systems of values and behavioural norms, but the assumptions about power and politics are derived from different sources: the Chinese from Confucian patterns and assumptions, the Malay from Islamic sources and traditional Malay ideas of power and authority based on status, hierarchy, and ritual patterns of deference.

The Chinese relieves anxieties created by political conflict by passing on rumours and seeking sympathy from bystanders, while the Malay becomes silent and withdrawn on the assumption that “talking about trouble makes matters worse.”¹⁰¹ Pye observes that “the Chinese feel superior and cannot accept that a Chinese leader should submit to the authority of a non-Chinese foreigner. As a consequence any Chinese acting in a political leadership role is viewed by his constituents as an imposter. This has made it difficult for the Chinese to function in the political system as a minority, and it has meant that they have been unable to solve political

problems of consensus and effective minority leadership. When agreements are made with Malay leaders, the Chinese public dismisses their leaders as impotent, selfish, and very likely corrupt."\(^{102}\)

He continues: “while Malay leaders act as protecting patrons for their client followers, leaders are often uncertain and ambiguous about how power should be used. This may be because Malays combine, in an incongruent mix, traditional ideas of deferential accommodation, the uncompromising and fatalistic ideals of Islam, and British legal norms and aristocratic values. [...] While the Malays exhibit highly deferential political behaviour to support a society structured on status and hierarchy, they also accept harsh discipline and arbitrary rule from their superiors.”\(^{103}\)

Summarizing the modal traits of Malay political culture, Pye observes the following patterns: “the Malay ideal of authority calls for sternness, dignity, and paternalistic concern. Rather than expecting that correct conduct will be rewarded, as in Chinese culture, Malays tend to believe that it is prudent to avoid conspicuous actions by relying on ritualized routines. The result is a low level of trust even among high officials.”\(^{104}\) Continuing his analysis, Pye observes that the Malay concept of power assumes that power is governed by supernatural forces and its exercise is therefore full of surprises.

Nevertheless it appears that Malaysia’s two political cultures are making some adjustments to each other. Some areas of consensus and common understanding about politics, especially at elite levels, appear, such as the importance of political bargaining and intercommunal understanding. Although a common civic culture has not emerged, there appears to be some minimum consensus on the basic ingredients for a stable and effective government in Malaysia’s multi-ethnic setting, and a common popular assumption that order and social harmony ultimately depend on unconditional

\(^{102}\) Ibid.

\(^{103}\) Ibid.

deference given by citizens to a political hierarchy capped by a powerful, benevolent and usually awesome leader. Today the traditional hierarchical character of Malay society is being extended to other communities as well. Through the heavy use of patronage, those political parties associated with the government have acquired the proximate structure of hierarchical patron-client networks. With more royal families and titled aristocracy than any other country in the world, the number of people receiving such awards each year runs into the thousands.

As a conclusion, we may notice how the fracture lines in Malaysia, especially the ethnic diversities, do not represent an obstacle for the good functioning of the federal institutions. The Federal Constitution of Malaysia can deal with elements of diversity, antagonisms and oppositions of all kinds and establish consensual institutions, sometimes traditional Malay ones, in reference to historical tendencies of open-mindedness.

(To be continued)

Further Reading


