

COLONIAL POWERS, NATION-STATES AND *KERAJAAN* IN MARITIME SOUTHEAST ASIA: STRUCTURES, LEGALITIES AND PERCEPTIONS

SYED MOHAMMED AD'HA ALJUNIED

Introduction

In the Malay world, the concept of *kedaulatan* hinges on the personification of the ruler-king as God's shadow on earth. This personification positioned the *raja* and *sultan* as the *de facto* monarch and lynchpin of the *kerajaan*.¹ Rooted on religious doctrines of the ruler as the embodiment of godliness, *kedaulatan* justifies the esteemed status of the ruler-king. Hence to challenge the king was tantamount to incurring the wrath of God whereas to solidify the king's position was believed to gain God's pleasure. Moreover, it was through the pillars of hierarchy of nobilities, the people (*rakyat*) and the sea gypsies (*orang laut*) that the Malay *kerajaan* was legitimised as the sovereign overlord.² With moral and social forces buttressed the *kerajaan's* position, the historical geographical extensiveness of *kedaulatan* becomes real than perceived. The territorial reach of the *kerajaan* henceforth was both cognitive and manifest.

The Westphalian system of sovereignty brought about by European powers in the 17th century contested this notion of *kedaulatan*. Sovereignty entails the independence of states ruled under a sovereign using the rule of law. Simultaneously, state and religion were rendered their individual public spaces. Sovereignty in the European perspective justified political contestation through the mechanism of war and politicking by influential power-brokers. Hitherto, one of the effects of secularisation was the reduction of the ruler's position as the shadow of God. Moreover, using war, gun-boat diplomacy, colonial systems of governance, modernisation and *realpolitik* to contest the position of the ruler, European powers and modern governments established governing principles which overlaps the *kerajaan's* idea of overarching presence based on the genre of *kedaulatan*. In due course, the *kerajaan* lost its formative power bases but maintaining its presence.

The overlapping nature of the European Westphalian governing paradigm and the *kerajaan's kedaulatan* stewardship in maritime Southeast Asia can be evaluated using structural, legal and perceptual frameworks. These three key areas of a broad framework

1 Anthony Crothers Milner, *The Malays*. (Oxford: Wiley-Blackwell, 2008) pp. 66.

2 Paulo Jorge de Sauso Pinto, 'Captains, Sultans and liaison dangereuses' in Peter Borschberg (ed.) *Iberians in the Singapore-Melaka Area (16th to 18th Century)*. (Harrassowitz Verlag Wiesbaden: Lisboa, 2004) pp. 136.

and analysis will clarify how the introduction of the European state system in Southeast Asia created overlapping frames of political systems. In the Malay Archipelago, historical precedents and contemporary events brought to surface an incomplete imposition of the European Westphalian state system for the region of maritime Southeast Asia. Herein, we witness an apparent tension between the colonial state and the *kerajaan*. Moreover, recent processes of nation and state building also strengthen the modern state's significant political role to that of the *kerajaan*. Additionally, within its charter, ASEAN buttresses the role of the modern nation-state by emphasising the necessity to seek international arbitration for contentious issues which would have rendered the political skirmish unresolved.³ Hence, in this scheme of power arrangement, the *kerajaan* is subdued through structural and legislative means. The modern state herein reigns supreme. Yet, the *kerajaan's* perception of her overarching presence remains intact based on events that have unfolded.

Sovereignty and *Kedaulatan*

Kedaulatan as a form of political influence and monarchical exertion was based on the pervasive presence of the *kerajaan*. The *kerajaan* was premised on spheres and extent of political reach, rather than a clear demarcation of borders as depicted in the Westphalian state system.⁴ Thus, the sphere and extent of the *kerajaan* can be enhanced or reduced, dependent on the power of the monarchy to offset challenges on her kingdom and kingship. Hence loyalty of the king's subjects to the kingdom hinges on the power of the *kerajaan* to rise to challenges abound. The *raja* or *sultan* therefore is also partially dependent on his ability to garner esteemed respect from his subjects. *Kedaulatan* therefore on one hand were established from the religious framework of the king as the shadow of God on earth and on the other, the ability of the king to mobilise support and live up to challenges to his kingdom. The acquisition of subjects by conquests or diplomacy increased the king's *nama* (reputation).⁵ Hence the king was preoccupied with extending its reputation so as to extend its control over human resource, claiming loyalty and respect from the people through establishing its name in respect to other sovereigns and kingdoms.

From the etymological perspective, the term *daulat* is related to the root word *dolat* which means that any challenge or disobedience to the king is tantamount to exposing oneself to be cursed or receiving retribution from God. This form of understanding *kedaulatan* henceforth relates to the role of religious discourse in entrenching the

3 ASEAN Secretariat, *The ASEAN Charter*. (Jakarta, 2008) pp. 25.

4 Joseph Liow Chinyong, *The Politics of Indonesia-Malaysia Relations: One Kin, Two Nations*. (London: Routledge, 2005) pp. 32.

5 Anthony Crothers Milner, *Kerajaan: Malay Political Culture on the Eve of Colonial Rule*. (Arizona: The University of Arizona Press, 1982) pp. 106.

ruler's position in his kingdom.⁶ Furthermore, the term *sultan* in Islamic theology means overwhelming power which is connected to the genre of dominion (*mulk*). Thus he who possesses this overwhelming power has with him control over the physical, rational and spiritual domains.⁷ Thus the Malay *kerajaan's* adoption of the Islamic title, *sultan*, is due to the entrenchment of power provided by the religious discourse. This form of power discourse invaded the cognition of the people (*rakyat*) thus rooting the *kerajaan's* legitimacy on the first instance of power ascension. Additionally, a *kedaulatan* only existed with the firming of the ruler's position since the success to broker alliances so as to maintain stability of rule positioned the *kerajaan* and *sultan* in power as the rightful guardianship of his perceived territories. Hence the moral base of power must be equated with the social manifestation of that power through the ability to gain an upper hand over all forms of political competition against the *kerajaan*.

The key concept to the European Westphalian system of states in 1648 was to demarcate clear territorial borders between kingdoms. The clear demarcation of borders seeks to establish domestic socio-political stability. The socio-political stability is enhanced based on the state's sovereign rights over her people and domestic affairs through the rule of law. Simultaneously, the clarity of borders demarcation also emphasised the idea of sovereignty of states towards any other powers from without.⁸ Additionally, the Westphalian system of states also represented a new form of diplomatic arrangement whereby an order created by states for states replaced the rule of the Pope and the Holy Roman Emperor.⁹

However, the European Westphalian system of states have evolved from a comprehensive, supreme and unqualified rule whereby the state has jurisdiction over all affairs in the country and final say in territorial realm matters to share and divided sovereignty.¹⁰ Forces of globalisation enhance the influential role of multilateral institutions, civil societies and transnational organisations in nation-states thus diluting the power of the state. In order to respond to these new challenges which divided its sovereignty, states engage the forces of globalisation by coopting, censoring and cooperating with these non-state institutions. Thus modern states success in ensuring that its sovereignty remains intact, demonstrates the flexibility of the concept sovereignty. For example, the formation of ASEAN in 1967 assisted the concretisation of the state's sovereignty such as the intervention against Vietnam's aggression towards Cambodia.

6 Michael Laffan, 'Dispersing God's Shadows: Reflections on the Translation of Arabic Political Concepts into Malay and Indonesian'. Paper Presented at The Australian National University, 2007: 8.

7 Fazlur Rahman, *Major Themes of the Qur'an*. (Kuala Lumpur: Islamic Book Trust, 1989) pp. 74.

8 Mark Beeson, 'Sovereignty under siege: globalisation and the state in Southeast Asia'. *Third World Quarterly* 24 no.2 (2003): 360.

9 Stephane Beaulac, 'The Power of Language in the Making of International Law: The Word *Sovereign* in Bodin and Vattel and the Myth of *Westphalia*'. (Leiden: Martinus Nijhoff Publishers, 2004) pp. 69.

10 John Baylis and Steve Smith, 'The Globalisation of World Politics: An Introduction to International Relations'. (United Kingdom: Oxford, 2001) pp. 23.

Regional institutions which are thought of as a challenge to state sovereignty, assist in entrenching state's sovereignty. To sum up, though the state has to co-exist with other non-state institutions which share and divide its sovereignty, the state is still central in this complex political equation.¹¹

The European conception of sovereignty therefore sought to demarcate clear borders so as to ensure socio-political stability for commercial interests, modernise governance and the rule of law. Moreover, the clear demarcation of borders ensured that European powers do not end up in political skirmishes as a result of overlapping influences. This would also prevent conflicts with the Malay monarchs if European powers were wrongfully involved in cross-territorial loyalty issues as it relates to the greater genre of monarchical honour. The problem to this imposing of territorial boundaries by European powers is this – the *kerajaan* perceives her continuing existence to rise above impediments of legalities and structures as the following case studies will illustrate.

The Dutch, Treaties and Kerajaan

In 1784, Admiral Jakob Van Braam of Holland signed a treaty with Sultan Mahmud. Sultan Mahmud was the last sovereign ruler of Johor and Riau Lingga Sultanate whereby he had manifest and cognitive control of his territories and people (*rakyat*).¹² In this treaty, Van Braam first emphasised on the esteemed position of Sultan Mahmud as the ruler of the Johor and Riau-Lingga Sultanate.¹³ This recognition of the Sultan's position was an early approach by the Dutch to acknowledge the authoritative aura of the Malay monarch over the regions of Johor and Riau-Lingga. Yet intrusion into the Johor and Riau-Lingga Sultanate's sovereignty belies the opening parts of the treaty which panders to the position of the king as the esteemed guardian of the region. The inclusion of a clause in the treaty, immediate to the recognition of the Sultan's position, is handing over of all possessions belonging to the Bugis in Riau to the Dutch. This encroached into the sovereignty (*kedaulatan*) of the *kerajaan*.¹⁴ Additionally, this treaty of 1784 also states that the Sultan will have to undertake all expenses of the war against the Bugis,¹⁵ the Sultan must assist the VOC against her enemies,¹⁶ the Dutch has absolute rights over Johor, Pahang as well as areas under the kingdom,¹⁷ Dutch freedom to trade in Johor and Pahang without restrictions,¹⁸ the exclusivity of Dutch

11 Tan Seen Seng, 'Whither Sovereignty in Southeast Asia Today?' in Trudy Jacobsen, Charles Sampford and Ramesh Thakur (eds.) *Re-Envisioning Sovereignty: The End of Westphalia?*. (Great Britain: Ashgate, 2008) pp. 98.

12 R O Winstedt, *A History of Malaya*. (Marican and Sons Sdn Bhd: Kuala Lumpur, 1982) pp. 159.

13 Arsip Nasional Republik Indonesia, *Surat-Surat Perdjanjian Antara Kesultanan Riau Dengan Pemerintahan V.O.C. dan Hindia-Belanda*. (Djakarta, 1970) pp. 4.

14 Arsip Nasional, *Surat-Surat Perdjanjian*, pp. 6.

15 *Ibid.*, pp. 8.

16 *Ibid.*, pp. 19.

17 *Ibid.*, pp. 21.

18 *Ibid.*, pp. 23.

military presence in Riau,¹⁹ the sea as the predominant reign of the Dutch and fixed trade taxation to the Dutch.²⁰ In return, the Dutch will ensure that the Malay aristocracy nominates the Sultan's son as heir apparent.²¹ Thus, though the *sultan* was sovereign, the Dutch viceroy was the actual suzerain in power.

The 1784 Dutch-Johor treaty elucidates the overlapping notion of *kedaulatan* and sovereignty. The frameworks of structures and legalities were super-imposed on the monarchy's perception of sovereignty thus limiting the Malay kingdoms' understanding of *kedaulatan*. The *kerajaan* thus enjoyed partial sovereignty and had to incept within its own perceptions of power, the European presence and definition of sovereignty. Additionally, the Sultan of Johor-Riau had to depend on the Dutch to ensure that his lineage remained intact as the heir apparent to the throne. This dependency demonstrates the fragility of the *kerajaan's kedaulatan* at large. It also illustrates the high problem of court factionalism in the Malay kingdom which discredits the *kedaulatan* of the *kerajaan* since the king could not garner sufficient support from nobilities for his own political advantage.²² Moreover, dependency on Dutch power brokering capacity and imposing control over internal as well as external affairs of the Johor-Riau Empire undermined the social structures which supported the *kerajaan*.²³

In 29 October 1830, the pandering and recognition of the Sultan as the ruler of the Johor-Riau Sultanate was missing. Under the Dutch treaty of 1830 with Sultan Abdul Rahman, son of Sultan Mahmud, the clause mentioning the position of the Sultan as the *de facto* ruler was changed to an equal position with the Dutch Governor, Elout Cornelius Peter Jakob.²⁴ Extra-territoriality for Europeans, imposition of Dutch judicial standards over the *adat* and *shari'ah* laws²⁵ as well as the necessity to seek the Governor's advice on economic, legislative and political matters further limited the independence of the *kerajaan* from Western encroachment.²⁶ By 1 December 1857, the fate of the Riau-Lingga Sultanate was sealed from a complete to partial and finally to minimal sovereignty. The Sultan was not only unmentioned as the ruler of Riau-Lingga but he was to pledge loyalty to the King of Holland.²⁷ The Governor General of Riau-Lingga will also nominate the heir apparent to the throne.²⁸ Recognition of the *sultan's* sovereignty in this instance therefore remained symbolic than real. The *kerajaan*

19 *Ibid.*, pp. 27.

20 *Ibid.*, pp. 28.

21 *Ibid.*, pp. 29.

22 Peter Borschberg, 'Left Holding the Bag: VOC Alliance Policies, The Twelve Years' Truce, and the Situation on the Ground in Johor, 1606-1613'. Paper presented at Tilburg University, Holland, 2009.

23 Barbara Watson Andaya and Leonard Y Andaya, *A History of Malaysia*. (London: The MacMillan Press Ltd, 1982) pp. 106.

24 Arsip Nasional, *Surat-Surat Perdjanjian*, pp. 73.

25 *Ibid.*, pp. 78.

26 *Ibid.*, pp. 80.

27 *Ibid.*, pp. 92.

28 *Ibid.*, pp. 110.

succeedingly begun to lose more power in terms of domestic governance thus bringing forth into question the issue of internal sovereignty as the Westphalian system of state have emphasised. Similar trend emerge in the Malay Peninsula, whereby the British installed Sultan Hussein as the colonial puppet ruler of Singapura due to her trade and commercial interests. The British also intervened in other Malay States using direct and indirect rule.²⁹ Installing Sultan Hussein was done at the expense of Sultan Abdul Rahman, the younger brother of Sultan Hussein.³⁰ Even Temenggong Abdul Rahman, the defacto guardian of the Singapura was politically marginalised.³¹

British, Governance and Kerajaan

The impetus which set the careful tone for British direct and indirect rule in Malaya from the late 19th century stemmed from the murder of the outspoken J W Birch. A purist colonial administrator, Birch endeavoured to provide continuity of British influence in Malaya when he was selected as the Resident to advise the Sultan of Perak on matters of governance. Central to this mission was to ensure that British commercial and trade interests remained intact and enhanced. Birch however took upon himself to go beyond advising the Sultan.³² His adamant pursuance of ensuring continuity in British commercial interests and, also to dictate and over-write customary laws inspired by *adat* and *shari'ah* set the stage for tension which led to his eventual murder. Similar to the Dutch and early British policy of using Malay kingdom court factionalism to place a ruler which would gravitate towards British interests, the Pangkor Treaty established the new Sultan of Perak, Abdullah, though the royal regalia was not gained as legitimate mode of succession.³³ Without the royal regalia, monarchical authority lacks the moral mandate to rule. Yet the social bases of support for the 'British Sultan' from the Malay nobilities and aristocracy were present since survival of the ruling class was deemed more pertinent. Unfortunately, Birch failed to acknowledge the limits of social and political change that he can espoused within the *kerajaan* and *kedaulatan* of the monarchy.

One of Birch's critical mistakes was overcoming *adat* by preventing Malay chiefs from collecting tax thus establishing a new system of collecting tax for the British administration. He also freed slaves at the angst of the Malay aristocracy and nobilities. Birch's unilateral and high-handed approach transgressed the limits of socio-political change that he could undertake. The traditional persona and aura of the *sultan* was not only dependent on the religious doctrine for its intrinsic basis of loyalty from the

29 R J Wilkinson, *A History of The Peninsular Malays*. (Singapore: Kelly & Walsh Limited, 1923) pp. 79.

30 R O Winstedt, *A History of Malaya*. (Kuala Lumpur: Marican and Sons Sdn Bhd, 1982) pp. 198.

31 K C Tregonning, *The British in Malaya: The First Forty Years 1786-1826*. (Arizona: The University of Arizona Press, 1965) pp. 151.

32 Roger Kershaw, *Monarchy in Southeast Asia The Faces of Tradition in Transition*. (London: Routledge, 2001) pp. 28.

33 Iza Hussin, 'The Pursuit of the Perak Regalia: Islam, Law and The Politics of Authority in the Colonial State'. *Law and Social Inquiry* 32 no.3 (2007): 763.

populous, but also dependent on the structural support it received from the nobilities and aristocrats who paid tribute to the *sultan*. This tributary system justifies the persona and aura of the king as the embodiment of God's shadow on earth who must be respect and elevated. Thus, the *raja* or *sultan* is dependent on the dominant leadership structure found in the Malay *kerajaan* system to ensure continuity of its predominance in the *negeri* (area) where codified legislation did not exist. Therefore to challenge the position and status of the nobility and aristocracy without providing an alternative to their pre-existing power-base and influence spelt disaster for any foreign administrator. Birch faced the worst end of the political skirmish which he himself had created. Similarly, Birch's undermining of *adat* and *shari'ah* affected the integrity of the *kerajaan* who was dependent on them for moral sanction.³⁴

It was from this experience of the murder of J W Birch that the British learnt of the significance of provisions to manage the *kerajaan's* needs as the *kerajaan's kedaulatan* is dependent on both moral and social factors. Hence the emphasise of the *sultan* as the guardian of Malay customs, *adat* and Islamic law points to the necessity to ensure socio-political stability from within if British interests were to be met without any costly political upheaval. The *sultan's* aura and persona as the symbolism of social stability must be maintained least it caused succeeding events similar to J W Birch's murder. The nobilities and aristocracy must be given alternative concessions of power and in due course western knowledge was introduced as part of the on-going process of structural and mental colonisation. This state affair was maintained till the end of Second World War where decolonisation set the platform for a renewed but diluted role of the *kerajaan* in the Malay Peninsula since the Westphalian system of sovereignty and modern notions of governance and nation-state building took place.

The advent of modern governance was in some cases managed well by the *kerajaan* in order to ensure its political longevity. The Sultan of Johor, Abu Bakar, known as the Father of Modern Johor understood the urgency to modernise and incept western ideas into governance. He proceeded with the greater agenda to accommodate western worldview with traditional vision. Abu Bakar drafted a constitution which prohibited the transfer of the Johor Sultanate's sovereignty and shaped the new bureaucracy to his will.³⁵ This initiative by Sultan Abu Bakar coupled with modernisation of Johor, positioned Abu Bakar as an enlightened monarch who is willing to synthesise between two competing interests – the *kerajaan's* and colonial powers.

However in contrast to Sultan Abu Bakar of Modern Johor, other sovereign Malay rulers in Malaya did not manage to abate the tide of colonial imposition. Thus the marginalisation of their role in contemporary politics was sealed much earlier. Admittedly, even the modernisation of Johor by the sovereign Sultan Abu Bakar could not save the *kerajaan* Johor from being pushed into the periphery of politics in post

34 Iza, 'The Pursuit of the Perak Regalia', p. 773.

35 J M Gullick, *Rulers and Residents: Influence and Power in the Malay States 1870-1920*. (Oxford: Oxford University Press, 1992) pp. 110.

world war Malaya.³⁶ In fact, similar model of Abu Bakar's approach to synthesise and manage the two competing worldviews of tradition and modernity was later taken up by a new group of elites in the post Second World War period. The formation of The United Malays National Organisation (UMNO) which legislated the position of the constitutional monarch illustrates the on-going persistence to maintain the Malay *kerajaan's kedaualatan* wherever possible. Unfortunately, this was done with wider negative ramifications to the *kerajaan*, in favour of nation and state building programs.

UMNO, The Malaysian State and Kerajaan

The Malayan Union crisis which garnered the Malays from royal, aristocratic and working classes to form a lobby group against the proposed removal of the *sultan* from the political feature of Malaya ensures the political longevity of the *kerajaan*. The United Malays National Organisation (UMNO) deemed that one of its main objectives in the events leading up to independence from the British was to ensure that the tripartite arrangement of *Melayu-Islam-Beraja* was sustained as a hallmark of Malaysian socio-political life. In this arrangement, the Malayan Union crisis was a rallying call for the royalty, aristocracy and masses to react swiftly to a J W Birch type of crisis where the power base and identity of Malayness was again questioned. Instead of questioning the *adat* and *shari'ah* as a problematic mode of social conduct, the Malayan Union proposal seeks to remove the very basis of the personification of the traditions – the Malay kingship system. Thus using the mechanisms of modern political methods, the new political elites acted against the Malayan Union Proposal.³⁷

The inclusion of religion, identity and monarchy into the Malaysian constitutional framework serves to consistently manage the clout of modern colonial worldview with that of traditional systems. Yet, this inclusivity was not done solely to acknowledge the long-standing contribution and role of the *kerajaan*. The advent of party politics and popular electoral system, marginalise the role of the *sultan* from being the focus of political life to that of a figurehead. This figurehead role ensured that post colonial Malaya emulated similar trends that had took place in Britain itself where an absolute monarchy was replaced by a constitutional monarchy. The removal of the *kerajaan* as the centre-piece of Malaya political life thus meant that the traditional structures of leadership were then overlapped by a new system of modern bureaucracy. Traditional power-positions which supported the social base of the *kerajaan's kedaualatan* were replaced by modern bureaucracy such as the executive, judiciary and legislature whose focus is on strengthening the modern state's power and apparatus.

36 Constance Mary Turnbull, 'British Colonialism and The Making of Modern Johor Monarchy'. *Indonesia and The Malay World*, 37 no.109 (2009): 246.

37 Mohamed Noordin Sopiee, *From Malayan Union to Singapore Separation: Political Unification in the Malaysia Region 1945-1965*. (Kuala Lumpur: University of Malaya Press, 2nd edition, 2005) pp. 25.

The new garb of modern governance henceforth reduced the extensive reach of the *kerajaan* because the structural support which the *sultan* had once received from an independent unilateral rule, was now passed on to a new group of ruling elites in the new independent state of Malaysia. Interestingly, the new federal government seek to deal with the varying Malay states through the personality of the Prime Minister and Chief Minister. Additionally, the Prime Minister deals only with the *Yang Dipertuan Agung*, a *sultan* from one of the Malay States who is nominated once every five years to represent other *sultans* in Malaysia. On the other hand, the maintenance of the respective independence of states in Malaysia itself was on the shoulders of the *Mentri Besar* (Chief Minister) who acts as the representative of the federal government.³⁸ The Chief Minister additionally acts as an inter-mediary between the federal government and the state *sultans*.

The positions of the *Yang Dipertuan Agung* and *Mentri Besar* minimises the individual sovereignty and *kedaulatan* of the respective *sultans*. They however ensure that the greater political agenda of Malay predominance in Malaysia's socio-political landscape remained intact. Since the *Mentri Besar* act as a bridge between the federal state and the respective *kerajaan*, the perception of the individual *kerajaans* that some form of *kedaulatan* is still present for the *sultan* to exercise power as a sovereign monarch of the past remained rooted. Herein, the overlapping notions of sovereignty of the state and the *kedaulatan* of the *kerajaan* explains the unilateral acts of some *sultans* due to the constitutional support of their role. However, to re-emphasise on the reduced role and influence of the *kerajaan*, the executive leaders of the federal state saw the necessity to bypass the *Yang Dipertuan Agung*, dealing directly with any *sultan* who seeks to contest the rule of law and the power of the modern secular state.

For example, in the Constitutional Crisis of the late 1980s, then Prime Minister of Malaysia Dr Mahathir Mohamad had to curb the powers of the *sultans* so as to establish the idea of the rule of law rather than rule by personality.³⁹ However over the passage of time, Dr Mahathir himself became the new uncrowned king.⁴⁰ In this episode, one of the issues was the arbitrary decisions by the Sultan of Johor and Perak to decide on religious matters - the fasting month of Ramadhan. The Sultan of Johor and Perak as the Heads of States declared twenty-nine rather than thirty days of fasting which went against the Malaysian State's quest for uniformity in Islamic practices.⁴¹ Thus, the constitutional crisis incident and shrewd political manoeuvring of the executive to pin down the *kerajaan*, gave more power to the Malaysian State therefore entrenching the rule of modern state elites. However, the incident of the Constitutional Crisis of the 1980s did not end the perception of the Malay *kerajaan* of its *kedaulatan* as the Singapore and *Kerajaan Johor* tension expound.

38 Roger, *Monarchy in Southeast Asia*, p. 102.

39 Hussin Mutalib, *Islam and Ethnicity in Malaysia*. (Singapore: Oxford University Press, 1990) pp. 141.

40 Barry Wain, 'Malaysian Maverick: Dr Mahathir Mohamad in Turbulent Times'. (United Kingdom: Palgrave Macmillan, 2009) pp.197.

41 Roger, *Monarchy in Southeast Asia*, p. 102.

Singapore and Kerajaan Johor

Under British direct rule, Singapura's development was different from the rest of mainland Malay Peninsula. Other than selecting Sultan Hussein as the 'British Sultan', Singapura was acquired 'legally' by the British under the Anglo-Dutch Treaty of 1824. Sultan Hussein and Temenggong Abdul Rahman were given pensions in return for releasing the sovereignty over Singapura. Though Singapura was ceded to the British, the Johor monarchy believes that Singapura belongs to the greater ambit of the Johor Empire, just as how the Riau-Lingga Islands were. Singapura was a part of Malaya, governed as crown colony within the Straits Settlement arrangement, later incepted into Greater Malaysia through merger.⁴² The manner in which Singapore was booted out of the Federation of Malaysia made the Johor monarch scope on Singapore as a part of its territory. Thus, the eventual demise of Sultan Hussein and the royal family stronghold in Singapura did not end of the perception of the Malay Johor *kerajaan* of its greater *kedaulatan* as historical events have revealed after Singapore's separation from Malaysia.

Singapore's membership in the Federation of Malaysia which was short lived, further illustrates how the Westphalian sovereignty and system of state worked in overlapping modes with the *kerajaan's kedaulatan* worldview. Singapore's quest for an equal playing field for all races ran against the new governing vision in Malaysia which emphasised on Malay supremacy and predominance.⁴³ Thus Singapore and Malaysia went on their separate ways. Yet the territorial stake of the Johor Sultanate in Singapore (Telok Blangah Daeng Ibrahim Mosque and plot of land near Botanic Gardens vicinity), and its perception of *kedaulatan* over the island state, overlaps with the Singapore and Malaysia sovereign states resolve to go on their separate ways with the recognition of the regional and international community. An illustration of how sovereignty and *kedaulatan* overlaps is clarified through the Pedra Branca issue.

The maintenance of the Horsburgh Lighthouse by Singapore, culminating from the Anglo-Dutch Treaty of 1824, posited Pedra Branca as an outpost loaned for proper management by Singapore. Pedra Branca is viewed as a territory of the Kingdom of Johor which was acquired implicitly through colonial commercial motivation couched in language of diplomacy.⁴⁴ The governments of Malaysia and Singapore thus decided that since Pedra Branca had a controversial and contentious past. An international arbitration institution, The International Court of Justice, was unanimously selected by both countries as the mediating party since the ASEAN Charter itself allows for such process to take place.⁴⁵ Two sovereign states acted in this case on the basis of a

42 Tan Tai Yong, *Creating 'Greater Malaysia': Decolonization and the Politics of Merger*. (Singapore: Institute of Southeast Asian Studies, 2008).

43 Albert Lau, *A Moment of Anguish*. (Singapore: Eastern Universities Press, 2003) pp. 281.

44 Alex Mills, 'Sovereignty over Pedra Branca/Pulau Batu Puteh/ Middle Rocks and South Ledge (Malaysia/Singapore) Judgement of 23 May 2008. *Cambridge Law Journal* 67 no.3 (2008): 446.

45 International Court of Justice, 'Special Agreement for Submission to The International Court of Justice of the Dispute Between Singapore and Malaysia over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge', 24 July 2003.

modern international order. Moreover, the modern international order recognised the governments of these states as legitimate representatives of their polities. Events that took place after the International Court of Justice's (ICJ) decision demonstrate subtle contestations. The late entry of the Johor *kerajaan* into the established decision by the ICJ, illustrates the role of the *kerajaan* as a quasi-political force throughout time.

Though Pedra Branca was legally acquired by Singapore and the Malaysian polity accepts the ICJ's decision, the Sultan of Johor maintained that Pedra Branca belongs to his *kerajaan*.⁴⁶ Using the traditional concept of a king's decree (*titah*), during the closing of the Johor State Assembly, the Sultan of Johor claimed that he will find all ways to make sure that he regains the island. *Titah* (a king's decree) is deemed as a sacred command to the *rakyat* (people). When the king issues a decree, he is referring to his symbol and status as the shadow of God on earth. Thus to obey his command is to obey God. Hence responding to the *titah*, a Johorean assemblyman said that as a Johorean, he must follow the Sultan's decision.⁴⁷

"Sampai bila masa, saya cari hatta ikhtiar balik benda itu ke Johor. (It doesn't matter how long it takes, but I will find ways until the island is returned to Johor)".⁴⁸

This unilateral opinion by the *sultan* was in contrast to the views of the two sovereign states and the international organisation, the ICJ. Sultan Iskandar of Johor is bounded by his own perception of *kedaulatan*. It is the colonial subjugation and politicking in the Malay Peninsula which fails to establish a clean cut between the past and the present that caused this complexity. Moreover, the developments of identity politics in Malaysia itself supported the continuing presence of the *kerajaan*. The resultant effect is the enduring presence of perception by the Malay *sultans* of the constituents of their territorial domains even when the era of nation-states have established and firmed territorial borders. Moreover, though the state of Johor is governed by a chief minister, the Sultan of Johor perceived that the Johor state is his. In the post ICJ judgement verdict scenario, the declaration of Sultan Iskandar to the Johor Parliament elucidates the perceptual presence the *kerajaan* has in Malaysia.⁴⁹ Yet, structural and legal derivations in Malaysia and the ICJ thought otherwise.

46 The Straits Times Singapore, 'Johor Sultan vows to find ways to reclaim Pedra Branca', 19 June 2008, accessed on 21 April 2009.

47 The Star, 'Johor Sultan vows to find ways to reclaim Batu Puteh', 19 June 2008, accessed on 1 December 2009. Quoted in www.malaysianbar.org.my.

48 *Ibid.*, 'Johor Sultan vows to find ways to reclaim Batu Puteh', 19 June 2008, accessed on 1 December 2009.

49 International Court of Justice, 'Case Concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore). Judgement, 23 May 2008, pp. 4.

Conclusion

The interaction between sovereignty and *kedaulatan* of the Malay *kerajaan* with colonial forces and the modern state has evolved from the 18th century. The presence of colonial power and the development of the modern state have reduced the monarchy from moral and social depth to mere perception. Thus, colonial treaties, secular legislations, modern governance and international codes of conducts among states buttress the position of the modern state. As a result, the *kerajaan* is gradually reduced of her moral and social bases, mainly operating on the basis of perception. While this claim may have posited the impossibility of the rise of the Malay *kerajaan* as a rejuvenated authoritative force of the past, efforts played by young *sultans* such as Raja Nazrin Shah of Perak seeks to push the role of the *kerajaan* in Malaysia's political life.⁵⁰ Yet this is done not to demonstrate the second coming of the *kerajaan* into the socio-political landscape of Malaysia, but more of an exertion of the entrenched position of *Ketuanan Melayu* in the tripartite arrangement of *Melayu-Islam-Beraja*. Henceforth the predominance of the Malays in Malaysia is solidified. The Malay *kerajaan* presently operates at the level of perceptions over its *kedaulatan*, whereas the modern state decides the structural and legal position of the *kerajaan*. It is the modern state that triumphs in this pattern of interaction between sovereignty and *kedaulatan*. The *kedaulatan* of the *kerajaan* was reduced and limited by colonial arbitrary will and in post decolonisation period by modern secular political elites whose roots are colonial and westphalian.

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