

LETTER | Yesterday was the king's third gentle reminder

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LETTER | The Federal Constitution is the “supreme law of the federation”, the highest law of the land, the law of laws, the grundnorm. According to Emeritus Prof Shad Faruqi, the Constitution creates the various organs of the state; describes and delimits their powers and functions; and prescribes rules about their relationship with each other and with the citizens.

So the Constitution creates a “supreme head of the federation” called the Yang di-Pertuan Agong and a “deputy supreme head of the federation” called the deputy Yang di-Pertuan Agong. It then creates a “Conference of Rulers” which may deliberate on questions of national policy and “any other matter that it thinks fit.”

Having created all of the above [Articles 32(1), 33(1) and 38(1)], the Constitution declares that “the executive authority of the Federation shall be vested in the Yang di-Pertuan Agong” exercisable by his majesty or by the cabinet [Article 39]. However, in the exercise of his functions under the Constitution or federal law

his majesty “shall act in accordance with the advice of the cabinet” [Article 40(1)], with the cabinet, in turn, appointed by his majesty [Article 43(1)].

Arguably the most important function of the king as the supreme head of the federation is to appoint a prime minister who advises his majesty on the appointment of cabinet ministers.

But neither one is supreme over the other, and neither is allowed to violate the Constitution. Both are organs of the state, constituting the executive, whose powers and functions are described and limited by the Constitution – the supreme law of the federation.

It is said that the king reigns, he does not rule or govern. The cabinet that rules, though, must rule in accordance with the law, in peace time or emergency time. During the latter, the Constitution allows laws called ordinances to be promulgated [Article 150(2B)].

But – and this is a big but – the Constitution mandates that a proclamation of emergency and any ordinance promulgated under it “shall be laid before both Houses of Parliament” [Article 150(3)]. The tabling is mandatory.

Which explains why the king has said it again that Parliament should meet again

as soon as possible to allow for his majesty's proclamation of emergency and the ordinances to be presented in Parliament.

So, while it is true that the king reigns and does not rule, his majesty may remind.

Yesterday, it was the king's third gentle reminder.

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