

# EDITORIAL

## Introduction

Parliament is the bulwark of democracy. Parliament places the people's representatives on the pedestal of power. It is up to them to determine which laws should be passed and which should not. In Parliament, the assertion of ministerial responsibility is made, and the government's accountability is checked. Parliamentarians make and unmake law. They hold the key to ensure that the government in power carry out their tasks and work for the people's interest and act within the ambit of the rule of law and uphold the supremacy of the Constitution. Like other government organs, Parliament is subject to the law and cannot hide behind its veil of parliamentary privileges. Parliamentarians are free to speak their mind, but the rule of sedition circumscribes freedom of speech within the four walls of the Parliament House.<sup>1</sup>

Walter Bagehot once said, 'A Parliament is nothing less than a big meeting of more or less idle people'. He certainly could not say the same thing about our Parliament. The fact that the people have raised many issues about Parliament indicates that Parliament is a body with plenty of activities. Parliament is always alive with issues of public concern such as on the quality of debate, the demeanour of the members of Parliament, the decorum and conduct, the extent to that arguments are well-built, well-researched and eloquently delivered, their attendance in sessions, their timely arrival or non-arrival, the significant or insignificant role of the Upper House. Despite those unfriendly comments, Parliament is an important institution for us. It has served us well. Important laws have been passed. Debates are often raised crucial issues of rights and interests, social needs and economic problems, race and religion, majority rights and minority privileges, controversies and concerns, and

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1 Article 63(2) provides for the general immunity against proceedings in any court "in respect of anything said or any given by him when taking part in any proceedings of either House of Parliament or any committee thereof". Clause (4) provides that clause (2) does not "apply to any person charged with an offence under...or with an offence under the Sedition Act 1948...". See *Abdul Rahman Talib v S Seenivasagam* [1966] 2 MLJ 66, *Mark Koding v Public Prosecutor* [1982] 2 MLJ 120 (FC), and *Public Prosecutor v Lim Kit Siang* [1979] 2 MLJ 37.

many more. During the state of emergency, some argue that Parliament should sit when the executive has the right to act as the legislature. So, if Parliament does not sit, that accountability cannot be raised. Based on the argument in Article 43(3) of the Constitution that ‘the Cabinet shall be collectively responsible to Parliament,’ failing to call a parliamentary session violates the duty imposed by the Constitution. It is also essential to consider that government’s accountability is affected not only on the floor of the House. It is the Yang di-Pertuan Agong’s government that the Prime Minister and his Cabinet is serving. Therefore, the government is answerable to the His Highness and his subjects, the people of Malaysia.

The journal is meant to become the conduit to express views, concerns, critics, and improvements about parliamentary and the state legislatures roles, functions and procedure. The journal is also meant to be multidisciplinary in content, and we are inviting materials in law, political science, sociology, language, communication and any other relevant disciplines. For the inaugural edition, we have asked a few eminent persons in law, political science, sociology and language to pen their views on matters close to their hearts. These are professors, seasoned and experienced politicians and social activists known for their sharp criticism and constructive evaluation of principles and issues.

## Content

The first edition focuses on articles only on various subject matters from legal and constitutional perspectives, parliamentary procedures, governance and politics, public interests, and parliamentary ethics and decorum. We hope to open up to shorter articles, commentaries on important events or decisions of courts, and book review in future editions.

For the first edition, we are proud to present eleven papers. The first article by Rais Yatim entitled “*Etika Legislatif untuk Wakil Rakyat* (Legislative Ethics for Honourable Members)” delves into establishing a set of legislative ethics applicable to members of Parliament and state legislatures in the light of deleterious elements besetting the people’s representatives. The fear is that in the absence of an effective, ethical directive, members of the legislatures’ value and decorum would be clouded with brashness and arrogance. The future of the nation depends on members who have a positive attitude and appropriate behaviours.

Next, Zaki Azmi writes on the government’s scenario against the backdrops of the aftermath of the 2018 General Election, the new government of February 2020, the pandemic and the lockdown and through to proclamation of Emergency in January 2021. The article entitled

“Government’s Powers During an Emergency” looks substantially at the legal interpretation of Article 150, complete with authorities, towards fighting the Covid-19 pandemic by utilising the powers thereunder.

The article by Nurul Izzah Anwar and Nurul Jannah Mohd Jailani entitled “Strengthening Malaysian Parliamentary Democracy Through Private Member’s Bills” seeks to evaluate the effectiveness of the Dewan Rakyat in its role to check and balance the Executive powers. The article focuses on the mechanism enabling the deliberation and debate of Private Member’s Bills. Drawing on local and international examples, this article argues favouring allocating space to Private Member’s Bills within the parliamentary agenda and consequently returning legislators their rights and agencies towards strengthening Malaysia’s parliamentary democracy.

The article “The Dewan Negara and Constitutional Reform: Upper Houses in Comparative Perspective” by Andrew Harding seeks to discuss reforms of the Dewan Negara focusing on two main areas, representation and revision, that are explored in comparative perspective, and the implications of these functions are discussed concerning the composition of the Dewan Negara. It is suggested that the proportion of senators representing the states and government-appointed senators has become imbalanced, reducing the House’s efficacy in both of its roles. Accordingly, the number of appointed senators should be reduced to a minority of the total.

Political financing has become the subject of vigorous debates recently in the light of continuous criticism of the government’s failure to provide closure to the issue. Edmund Terence Gomez and Joseph Tong’s article titled “Financing Politics in Malaysia: Reforming the System” deals with the problem comprehensively. The authors argue that political financing should go beyond introducing new legislation. The article argues for the need to consider two additional points when this type of reform is proposed, namely: (1) institutional reforms of agencies responsible for monitoring the activities of parties and elections to allow for greater autonomy of these institutions; and (2) measures to ensure internal party elections are conducted in a manner devoid of deep monetisation.

The article in Bahasa Melayu entitled “*Mekanisme Pengawasan Bahasa Kurang Sopan (Unparliamentary Language) di dalam Dewan Rakyat: Perspektif Perundangan* (The Control Mechanism of Unparliamentary Language in the Dewan Rakyat: A Legal Perspective)” penned by Idzuafi Hadi Kamilan and Muthanna Saari discusses inappropriate and unsavoury words uttered in parliamentary proceedings. Words that are sexist and

harmful, personal attacks and condescending remarks are often the type words and sentences that came out of respected members of Parliament that are uncalled for and should be stopped. The article seeks to analyse ways and methods to control such occurrences and suggest measures to deal with the situation.

Next, the paper entitled “Role of Parliamentarians in Localising SDGs in Malaysia” contributed by Denison Jayasooria. It analyses the role of the All-Party Parliamentary Group Malaysia (APPGM) on SDGs. This is a bipartisan, multi-stakeholder group that is identifying local development issues and finding local solutions. This is undertaken in a decentralised way with the participation of the local communities. While these are short-term solution projects, it illustrates the potential of a decentralised, multi-stakeholder intervention that is locally defined and implemented. The pilot phase has also demonstrated the dual role of Members of Parliament who undertook constituency work as SDG champions at the grassroots.

Issues raised on the Public Account Committee (PAC) consistently generate lots of interest to critics and researchers. The article entitled “The Practice of Public Accounts Committee in the Parliament of Malaysia” is written by Siti Fahlizah Padlee. The research explores the PAC’s current practices in Parliament on the appointment of its Chairman, and the implementation of two types of new meetings. It identifies the relationship between the PAC with other stakeholders. The research employed a case study with an exploratory, descriptive approach using data collected from published reports of PAC meetings from 2017 to 2020, the PAC’s official website, interviews with a parliamentary officer-in-charge of handling the PAC, as well as international and local newspapers such as *The Straits Times* and *The Edge*.

The article about the Yang di-Pertuan Agong and Parliament is written by Abdul Mu’iz Abdul Razak and Wan Noorzaleha Wan Hasan entitled “A Reappraisal on the Constitutional Functions of the Crown, the Parliament and the Judiciary to defend Malaysian Constitutionalism”. The article delves into the reality of Malaysian constitutionalism from the perspective of Yang di-Pertuan Agong’s office. A doctrinal analysis is employed to ascertain the plethora of functions and powers of the Rulers, specifically on the executive authority of the Yang di-Pertuan Agong and His Majesty’s roles in Parliament during times of emergency. The paper proceeded to discuss the Malaysian experience of the underlying principles of constitutionalism. The analysis focuses on judicial decisions, recent issues that touch on the existing constitutional framework’s scope and powers.

The role of Parliament in dealing with sexual harassment is analysed in the article in Bahasa Melayu entitled “*Gangguan Seksual: Peranan Parlimen dalam Penggubalan Undang-undang dan Polisi yang Relevan* (Sexual Harassment: The Roles of Parliament in the Enactment of Law and Relevant Policy)”. The author Rozana Abdullah looks at the process that has taken place within Parliament that has resulted in the passing of the law on sexual harassment. It aims to analyse the role Parliament played in ensuring that the bill on sexual harassment was passed based on the select committee’s analysis and report. The study covers various minutes of the special committee, motions and order of meetings distributed during the third session of the 14th Parliament (until 3 December 2020). It was discovered that up until 3 December 2020, only 15.25% of parliamentary questions posted in both houses were on sexual harassment.

Another article on SDGs entitled “The APPGM-SDG (All-Party Parliamentary Group Malaysia for Sustainable Development Goals): Towards Mainstreaming SDG in Issues and Solutions of Parliamentary Constituencies” is written by Danial Mohd Yusof and Zainal Abidin Sanusi. The paper looks into the All-Party Parliamentary Group Malaysia (APPGM) on its origin, rationale, objectives, and group scope. Specific projects are discussed that include SDG programmes aimed at pioneering parliamentary constituencies in 2020.

## Conclusion

The editorial board and the secretariat look forward to more contributions from researchers, writers and parliamentarians to ensure that the journal progresses and continue to become a powerful platform for those who are affectionate and concern that our legislatures serve their constitutional functions with rigour, passion and care for the rule of law. Our constitutional legacy is full of wisdom, courage, justness, fairness and always being conscientious on any issue that affects both the majority and the minority citizen. We have continuously upheld the rule of law. Our system of parliamentary democracy and an entrenched presence of the constitutional monarchy system has provided us with valuable notions of a unique system of responsible government.

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*Editor-in-Chief*