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UHE3182 MALAYSIAN STUDIES

Chapter 5 THE ADMINISTRATION SYSTEM

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THE MALAYSIAN GOVERNMENT SYSTEM



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Learning Outcomes

- Know the system and structure of administration of Malaysia.
- Describe the federation system in Malaysia



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Introduction

- The administration pattern in Malaysia is determined by separating the three bodies which is legislative body, executive body and judiciary body.
- The separation of these three bodies is known as the power division doctrine.



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Power Division Doctrine in Malaysia

- The administration structure in Malaysia is headed by the Yang Dipertuan Agong as Head of State.
- there are three main bodies in the administration system: the legislative, executive and judiciary bodies.



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THE YANG DIPERTUAN AGONG

- the Yang Di-Pertuan Agong is the supreme head of state in Malaysia and he acts on the advice of the Parliament and the Prime Minister.



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- The Yang Di-Pertuan Agong has the legal right to appoint the Chief Justice, Federal and High Court judges based on the guidelines stipulated in the Federal Constitution and acting on the advice of the Prime Minister.
- He is also given the privilege of pardoning wrongdoers and civil offences committed in the Federal Territories of Malaysia, and override sentences passed out by the Military Court.
- He is the highest commander of armed forces in the country.



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- The Yang Di-Pertuan Agong also has the highest honour and is given the privilege of conferring awards, orders of chivalry and other honours.



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Legislative Authority

- In Malaysia, Legislative authority is in the hands of the Parliament, which comprises the Senate, House of Representatives and the Yang Di-Pertuan Agong who heads the Legislative Council.
- The Legislative Council functions as a law maker and has the authority to raise taxes and authorise expenditure.
- legislative power is shared between the Federal Government and State Government, and systematically distributes it in a Federal List, State List and a Concurrent List.



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Federal list

- The Federal List covers the areas of external affairs, defense, internal security, civil and criminal war, citizenship, finance, commerce and industries, shipping, communication, health and labour.



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State List

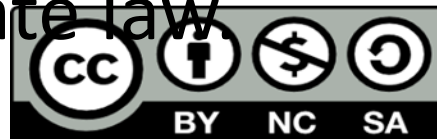
- The State List comprises areas of land, agriculture, forestry, local government, Muslim Law and several others.



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Concurrent List

- In the Concurrent List, the areas covered are governed by both the Federal Government and the State Government and include social welfare, scholarship, wildlife protection, and town and country planning. It should be noted, however, that should any dispute arise in these areas or there be any inconsistency among them, the Federal law takes precedence over State law.



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Parliament and Its Functions

- As the supreme Legislative Authority in the country, Parliament formulates the laws that are enforced in the nation and controls the finances of the Government.



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The Senate and the House of Representatives

- The Senate comprises 69 members, known as Senators.
- Of this number, 40 are appointed by the Yang Di-Pertuan Agong, from among citizens believed to possess excellent records in public services, businesses, trade and commerce, have contributed much to the benefit of the public or are representatives of ethnic or minority groups.
- Each state will select two representatives from its Legislative Assembly and this accounts for the other 26 senators. The final three members of the Senate will be appointed by the Yang Di-Pertuan Agong where two will represent the Federal Territory of Kuala Lumpur, and one will represent the Federal Territory of Labuan.
- Senators have to be 30 years and older and remain in their office for a three-year term, after which another senator will be appointed to serve the Senate.



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Legislative Proceedings

- A Bill may originate in any two Houses; except a Money Bill, which has to originate from the House of Representatives. Bill is required to undergo 4 stages, which are The First Reading, The Second Reading, Committee Stage & the Third Reading.



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- The first stage known as the First Reading, is merely a formality in which a minister in the House of Representatives will stand up and table the Bill.
- This is followed by the Second Reading and the most important one, which may take place on the same day, (with the exception of certain bills) where the policy of the bill is presented by the Minister.
- If the bill is supported by another member of the House of Representatives, it is then discussed and debated in detail. At the Committee level, which comes after the Second Reading, members may reject or amend the bill. If the House finds the Bill favourable, members take a vote by balloting and the Bill then moves on to the Third Reading.



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- In the Third Reading, the particulars of the Bill will be debated and only errors in spelling and syntax may be amended. From here, the bill moves on to the Senate
- or will be sent to the House of Representatives if the Bill originates from the senate.
- In the Senate, the Bill goes through the same procedure and if it is approved, the Bill will be presented to the Yang Di-Pertuan Agong, who will then seal it with the Keeper of the Rulers' Seal. Only after being gazetted in the Government Gazette, the bill will then become a Law.



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Executive Authority

- Executive Authority refers to the power to govern the country.
- The Yang Di-Pertuan Agong is the head of the Executive Authority. However, he acts on the advice of the Prime Minister who heads the Cabinet.



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The Functions of the Cabinet

- The Yang Di-Pertuan Agong appoints a council of Ministers to form the Cabinet to advise him on the execution of his functions as the head of the Executive Authority. They are appointed based on the advice of the Prime Minister.
- The Cabinet comprises the Prime Minister and a number of Ministers, all of whom must be members of either the Senate or House of Representatives.
- the Cabinet, being the highest policy-making body in the country, meets regularly to formulate the policy of the government



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The Prime Minister and Ministers of the Cabinet

- The Prime Minister is the head of the Government in Malaysia and is appointed by the Yang Di-Pertuan Agong from the political party that has the majority seats in the House of Representatives.
- As the executive head of the Government, the Prime Minister answers to the Yang Di-Pertuan Agong on all matters pertaining to the Government.
- The main tasks of the Prime Minister are to preside over the Cabinet, coordinate policies and efforts of each portfolio in the government to aid in the smooth administration of the country.



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Judicial Authority

- As stated in the Federal Constitution, the judiciary is given the authority to hear and determine criminal matters, interpret the legality of any legislative and executive acts and the Federal and State Constitutions. The Head of the Judiciary is the Lord President of the Federal Court, which is the highest court in Malaysia.



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- In Malaysia, Judicial Authority is vested in the Superior and Subordinate Courts. The Superior Courts comprise the Federal Court, Court of Appeal, the High Court of Malaya and High Courts of Sabah and Sarawak. In Peninsular Malaysia, the Subordinate Courts are established under the Subordinate Court Act 1948, and comprise the Penghulu's Court, Magistrate's Court and Sessions Court. In East Malaysia, based on an amendment made in 1981 to the Subordinate Court Act 1948, the Subordinate Courts comprise the Court, Magistrate's, Native Court and Sessions Court.



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The Superior Courts

- The Superior Courts are divided into Federal Courts, the Court of Appeal, the High Court of Malaya, and High Court of Sabah and Sarawak.



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Federal Courts

- Being the highest court in Malaysia, the Lord president of the Federal Court is the head of the Judiciary. The Federal Court comprises the Chief Justice, the President of the Court of Appeal, the Chief Judge of Sabah and Sarawak, and six Federal Court Judges. In each proceeding to be heard by the Federal Court, there has to be a minimum number of three judges.
- According to Article 121 (1) of the Federal Constitution, the Federal Court has authority over appeals and can be referred to on various matters except those which come under the jurisdiction of the Syariah Court



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Court of Appeal

- The Court of Appeal came into effect on 24th June 1994. The Court of Appeal is presided over by the President of the Court of Appeal and 8 judges.
- As stated in Article 121 (1B) of the Federal Constitution, the Court of Appeal is authorized to hear any appeal and decide on the outcome of any decision made by the High Court or criminal matter decided by the Sessions Court.



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High Court

- There are two High Courts in Malaysia, which are the High Court of Malaya and High Court of Borneo (Sabah and Sarawak).
- The High Court has unlimited power in the exercise of its jurisdiction over criminal and civil cases. However, only cases that are beyond the jurisdiction of the subordinate courts are brought before the High Court.
- The High Court consists of two Chief Judges (one in Peninsular Malaysia and one in Sabah and Sarawak) and more than 50 Judges and Judicial Commissioners.



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Subordinate Courts

- The Subordinate Courts in Peninsular Malaysia are divided into the Sessions Court, Magistrate's and Penghulu's Court. In East Malaysia, the Subordinate Courts comprise the Sessions Court, Magistrate's Court and Native Court.



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Sessions Court

- The Sessions Court is the highest of the subordinate courts and has the authority to hear all matters criminal in nature, except those that carry the death sentence. In civil cases, the Sessions Court can hear matters pertaining to tenancy agreements, motor vehicles, accidents and many more as long as the value disputed does not exceed RM250,000.



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Magistrate's Court

- In the case of the Magistrate's Court, there are two, known as the First Class Magistrate's Court and Second Class Magistrate's Court. In either court, one magistrate presides.
- The first class magistrate has jurisdiction to hear offences which carry sentences not exceeding a prison term of 10 years, offences punishable with a fine and civil cases involving claims below RM25,000. The maximum sentence a magistrate can dish out is 5 years imprisonment, 12 strokes of the rotan, and a fine of RM10,000 or any combination of above.



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Second Class Magistrate

- The second class magistrate has the jurisdiction to hear offences of which the maximum term of imprisonment does not exceed a year or punishable with a fine only. The magistrate may sentence an offender to a maximum of 6 months' imprisonment, a fine not exceeding RM1,000 or both.



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Penghulu's Court

- The Penghulu's Court is the lowest of the Subordinate courts in Peninsular Malaysia. This court has the jurisdiction to hear trials involving minor offences that carry a fine not exceeding RM25. In civil matters, the Penghulu's Court may only hear disputes not exceeding RM50.
- In Sabah and Sarawak, the Native Courts have jurisdiction over matters pertaining to native laws and customs in which both parties are native and involve religious, matrimonial or sexual issues. For civil cases, this particular court can hear cases that involve disputes not exceeding RM50. It is under the scrutiny of the District Officer



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Group Discussion

- The students are required to do a role play as a cabinet committee.
- Each ministry have to proposed a new rule to community.



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