

ON MALAYNESS...

THE EMBRYONIC MALAY CONSTITUTION

Our native constitution is derived from the oath between Sang Sapurba and Demang Lebar Daun, on his accession as King of the Kingdom of Palembang, part of the Old Malay Kingdom and later Srivijaya. This oath serves as a social compact between the king and his subjects. It is the oath, that later became the bedrock of the Malacca Code and along with the tenets of Islam, to strengthen it. The story of the oath is narrated in great details in the Malay Annals, authored by Tun Sri Lanang, Bendahara of Johore. The Malay Annals has been declared by the United Nations under the term, 'Memories of the World'.

Let us study the events, as narrated by the Malay Annals. We shall only concentrate on the gist of the matter. It can be broken into 4 main events:

- 1.Oath of Sang Sapurba
- 2.Royal marriage between Sang Sapurba and the princess of Demang Lebar Daun
- 3.Voluntary transfer of sovereignty by Demang Lebar Daun to Sang Sapurba
- 4.After the accession to kingship of Sang Sapurba, the selection of Demang Lebar Daun as the Grand Vizier or what is later known as the Bendahara

The Oath constitutes the basic principles of the embryonic constitution and the political system which represents the link between the Sovereign and his Subjects. As stated in the Malacca Code, 'adalah mengikut hukum yang dulu-dulu' which is translated as 'following the established conventions' is understood as following the Oath of Sang Sapurba. The Malay Annals states further, that the spirit of code is from the legacy of King Iskandar Zulqarnain and King Solomon son of King David (alaihissalam) as the Malay kings are descended from them. In a few versions of Malay Annals, the mentioned of sharia clearly refers to teachings of the Islamic Messengers prior to the time of Islam.

In the Oath, it is clearly stated that the King is neither divine nor absolute. The King is held in high esteem, fealty and obedience are demanded, but must follow these conditions;

- 1.The King is subject to the Oath
- 2.If the King breaches the Oath with his subjects, he will lose his kingdom
- 3.The King promises to be just in dispensing justice (following sharia)
- 4.If any of his subjects, the Malay, is guilty of very serious offenses, he shall not be shamed, his honour shall not be besmirched, but it is left to His Majesty's pleasure.

The accession to the Palembang throne, is the passing of Sovereignty, by Demang Lebar Daun, who represents the subjects to Sang Sapurba, who is now the Sovereign. The Sovereignty is not absolute as there are quid pro pro namely, the conditions of the Oath. This is in essence, the Malay social compact, in which Islam is supreme as opposed to the Western social contract as per Voltaire and Rosseau in which the people is supreme.

This is the early form of constitutional principles that is still in use today. The consensual way in which it is framed is the hallmark of many Malay codes later in use in many Malay States. In ending this discussion, let us ponder at a Malay aphorism;

Kuat rumah kerana sendi,
Rosak sendi rumah binasa,
Kuat bangsa kerana budi,
Budi rosak hancurlah bangsa.

The rough translation is

Strong is the house due to its pillars,
If the pillars fail, the house collapses,
Strong is the people due to its morals,
If morals leave, the people vanishes.

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