

Can Agong end Perikatan's skirting of Parliament? Yes, experts say

Legal allowance to supersede cabinet advice only valid during emergency, however

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KUALA LUMPUR – The government may continue holding off on reconvening Parliament, but a clause in the federal constitution can force the sitting to be held.

According to constitutional expert Datuk Wan Ahmad Fauzi Wan Husain, the powers accorded to the Yang di-Pertuan Agong under the law allow His Majesty to summon MPs for a sitting on a date he sees fit.

The Universiti Malaysia Pahang Institute of Civilisation and Strategic Studies director said this can be done by promulgating a new emergency ordinance under Article 150(2B) of the constitution.

Speaking to The Vibes, Wan Fauzi said while the existing Emergency (Essential Powers) Ordinance 2021 states that Parliament can be summoned on a date the Agong thinks appropriate, this has to be on the advice of the cabinet.

It is pursuant to Article 40 of the constitution, which stipulates that the king must accept and act according to advice for all general provisions under the supreme law.

“What this basically means is, at the moment, even if the Agong wants Parliament to reconvene, he can only do so if he is advised as such by the prime minister,” said Wan Fauzi.

To supersede this, he said, an ordinance has to be promulgated by His Majesty to suspend Article 40. This is allowed under emergency rule.

“In simpler terms, the king can basically come up with an ordinance to suspend the very provision that requires him to seek cabinet advice before calling for Parliament.”



Constitutional expert Datuk Wan Ahmad Fauzi Wan Husain moots for a ‘political emergency’ to be declared before any ordinance to allow Parliament to sit is promulgated. – Bernama pic, June 19, 2021

Wan Fauzi, who specialises in the study of the royal household, said this has to be done before the emergency ends on August 1, after which the Agong’s power to promulgate an ordinance lapses.

He also pointed out that any emergency ordinance, unless revoked sooner, automatically lapses six months from the date of the emergency’s expiry.

Wan Fauzi was commenting on the Perikatan Nasional administration’s insistence that Parliament will sit only in September or October, despite Agong Al-Sultan Abdullah Ri’ayatuddin Al-Mustafa Billah Shah’s call for the upper and lower houses to [convene as soon as possible](#).

On Wednesday, after a special meeting with the other Malay rulers, the king said Parliament must reconvene to allow MPs to debate emergency laws and the National Recovery Plan.

Wan Fauzi said while the Agong may be accused of political interference by forcing a date for Parliament to reconvene, His Majesty has a responsibility after taking an oath to perform justice and duty in the rakyat’s best interests.

Looking at the current situation in the country, with the public outcry, if the government refuses to accede to the Agong’s request to reconvene a sitting, then I feel the Agong should step in.”

To avoid prolonging the crisis, he proposed that a “political emergency” be declared before any ordinance to allow Parliament to sit is promulgated.

“The current emergency is one over health, so all ordinances are done in view of public health. It is best to proclaim another emergency, just in case there are people arguing about the king’s action.”

Delay tactics may risk treachery accusations

Legal expert Datuk Salleh Buang said in theory, the Agong has the power to set a date for MPs to reconvene, but the reality is that he should first summon the Dewan Rakyat speaker for an audience to provide an update on the situation.

“The Agong must get his (the speaker’s) commitment on when Parliament is really ready, be it for (a) physical, virtual or hybrid sitting.”

Beyond the constitution, he said, there are other provisions that authorise the king to make decisions, including constitutional conventions, as well as the monarch’s discretionary and reserve powers.



While the Agong can call for the Dewan Rakyat to sit immediately, he should first consult the speaker for an update on the current situation, says legal expert Datuk Salleh Buang. – ismaweb pic, June 19, 2021

He added that while the constitution does not provide penalties for disobeying the king, including by not acceding to his decree for an immediate parliamentary sitting, such an act could have repercussions.

In Malay culture, it (disobedience) is ‘derhaka’ (treacherous). Will the government and prime minister risk being called that?

“In the worst-case scenario, there will be a constitutional crisis. If that happens, the government should know that the king is together with the rakyat and the rest of the people, including opposition parties.”

The former federal counsel said based on common and logical sense, as well as in terms of priority, Parliament must be reconvened even before the emergency ends.

This is especially vital for the House to take immediate cognisance of the current ordinances and decide whether to scrap them, considering that they will remain in force for six months after the emergency ends, he said.

“With Parliament, MPs can decide whether to extend the emergency by vote, look at the ordinances and the funds spent by the government, and discuss the war against the pandemic.”

Salleh said this will also allow the Public Accounts Committee to sit and examine the government’s spending of public money. – The Vibes, June 19, 2021