

**HONOURING THE *SUI GENERIS* OF  
MILITARY SERVICE THROUGH  
CIVIL-MILITARY RELATIONS PRACTICES  
AND CONSTITUTIONALISM IN MALAYSIA'S  
PERSPECTIVES**

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**DOCTOR OF PHILOSOPHY  
(STRATEGIC AND INTERNATIONAL  
RELATIONS)**

**UNIVERSITI PERTAHANAN NASIONAL  
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CIVIL-MILITARY RELATIONS PRACTICES AND  
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**WAN EDENIN BIN WAN MAHSIN**

Thesis submitted to the Centre for Graduate Studies, Universiti Pertahanan Nasional  
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(Strategic and International Relations)

**2024**

## ABSTRACT

The Malaysian Armed Forces (MAF) is facing degradation of *sui generis* of military service in its organization. The present situation can affect the effectiveness, ethos, culture and values of the military. Due to this, MAF will need to address and mitigate this situation with the related issue before it gets out of control. Thus the objectives of the research outlined are to analyse the philosophy of loyalty to the King and country; and the status of the King as Supreme Commander of the Armed Forces. Secondly, is to analyse the existence and the responsibilities of the Armed Forces Council. Thirdly, is to analyse the interference of the Department of Public Service in the military affair and the position of the military as part of public service. This research has adopted qualitative method and utilised philosophical realism as the line of thought. The research hinged on two main pillars namely Civil-Military Relations Practices and Constitutionalism. These two pillars were used to analyse and synthesise the main issues due to their closely associated and existence in a symbiotic relationship. At the same time, this research has been developed through five approaches consisting of conceptual, historical, cultural, doctrines and leadership. The line of thought, pillars of research and approaches selected are significant to address the problem statement of the research which concerning on the reasons for why the continuous degradation of *sui generis* of military service in the MAF. For this purpose, a narrative and content analysis method has been utilized throughout the research. The findings of this research established that the military should be loyal to the King and country; and dignify the status of the King as Supreme Commander of the Armed Forces. The existence and responsibilities of the Armed Forces Council should be respected at

all times. Apart from that, the interference of the Department of Public Service in military service should be stopped even though the military is part of public service as stated in the Federal Constitution. Based on the recommendations of this research, the related issues should be solved accordingly because the ultimate impact is placing the security of the state at risk.

## ABSTRAK

Angkatan Tentera Malaysia (ATM) sedang menghadapi kelunturan *sui generis* perkhidmatan ketenteraan dalam organisasinya. Keadaan ini boleh menjejaskan keberkesanan, etos, budaya dan nilai-nilai ketenteraan. Oleh itu, ATM perlu menangani dan memperbetulkan situasi ini berdasarkan isu yang berkaitan sebelum ia menjadi luar kawalan. Justeru, objektif kajian yang digariskan adalah untuk menganalisa falsafah kesetiaan kepada raja dan negara; dan status Yang di-Pertuan Agong sebagai Panglima Tertinggi Angkatan Tentera. Keduanya, adalah untuk menganalisa kewujudan dan tanggungjawab Majlis Angkatan Tentera. Ketiganya, adalah untuk menganalisa campur tangan Jabatan Perkhidmatan Awam dalam hal-hwal ketenteraan dan kedudukan tentera sebagai salah satu perkhidmatan awam. Kajian ini mengadaptasi kaedah kualitatif dan asas pemikiran yang diguna pakai adalah falsafah *realisme*. Kajian ini berteraskan kepada dua tunjang utama iaitu Amalan Hubungan Sivil-Tentera dan Keperlembagaan. Kedua-dua tunjang ini digunakan untuk menganalisa dan sintesis isu-isu utama kerana kedua-duanya adalah berkait rapat serta wujud hubungan simbiotik. Pada masa yang sama, kajian ini telah dibangunkan melalui melalui lima pendekatan yang merangkumi konseptual, sejarah, budaya, doktrin dan kepimpinan. Asas pemikiran kajian, dua tunjang utama dan pendekatan yang dipilih adalah signifikan untuk menangani permasalahan kajian yang menjurus kepada sebab dan mengapa kelunturan *sui generis* perkhidmatan ketenteraan terus berlaku dalam ATM. Untuk itu, kaedah naratif dan analisa kandungan bahan ilmiah telah diguna pakai di sepanjang kajian ini. Dapatan kajian ini menunjukkan bahawa tentera mesti setia kepada raja dan negara; dan memartabatkan status Yang di-Pertuan Agong sebagai Panglima

Tertinggi Angkatan Tentera. Kewujudan dan tanggungjawab Majlis Angkatan Tentera harus dihormati pada sebilang masa. Selain itu, campur tangan Jabatan Perkhidmatan Awam dalam hal ehwal ketenteraan harus dihentikan walaupun tentera adalah salah satu perkhidmatan awam sebagaimana termaktub dalam Perlembagaan Persekutuan. Berdasarkan cadangan kajian ini, isu-isu berkaitan harus ditangani dengan sebaiknya kerana impak yang utamanya akan meletakkan risiko kepada keselamatan negara.

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From the beginning of this challenging journey, my supervisor, Colonel (R) Assoc. Prof. Dr. Zaini Salleh inspired and encouraged me to strongly face all challenges along the way. His close supervision, consistency and motivation boosted my spirit to reach the end. Throughout the journey, I encountered many uncertainties, ambiguities, hardship and the unknown that need to be explored and synthesised to conclude this research. Nevertheless, I managed to complete this research accordingly.

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## APPROVAL

The Examination Committee has met on **27 February 2024** to conduct the final examination of **Wan Edenin Bin Wan Mahsin** on his degree thesis entitled **‘Honouring the *Sui Generis* of Military Service Through Civil-Military Relations Practices and Constitutionalism in Malaysia Perspective’** .

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Academic session : 2023/2024

I hereby declare that the work in this thesis is my own except for quotations and summaries which have been duly acknowledged.

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19. Maj Gen (R) Dato' Dr Mohd Kenali bin Basiron - Military Counsellor
20. "Devil Advocators" - Senior Military Officers and Civilian Leaders

## LIST OF ABBREVIATIONS

AFC	-	Armed Forces Council
CMR	-	Civil-Military Relations
CDF	-	Chief of Defence Force
CW	-	Conventional Warfare
CIW	-	Counter Insurgency Warfare
CPM	-	Communist Party of Malaya
DPKO	-	Department of Peacekeeping Operation
FPDA	-	Five Power Defence Arrangement
IHL	-	International Humanitarian Law
JMF	-	Johor Military Force
LOAC	-	Law of Arms Conflict
MAF	-	Malaysian Armed Forces
MOOTW	-	Military Operation Other Than War
MAGERAN	-	Majlis Gerakan Negara
NSC	-	National Security Council
NATO	-	North Atlantic Treaty Organisation
TNI	-	Tentera Nasional Indonesia
UNSC	-	United Nations Security Council
UNCLOS	-	United Nations Law of the Sea
FONOP	-	Freedom of Navigation Operation
PSD	-	Public Service Department
RMN	-	The Royal Malaysian Navy
RMAF	-	The Royal Malaysian Air Force
ZOFPAN	-	Zone Of Freedom, Peace and Neutrality

## **CHAPTER 1**

### **INTRODUCTION**

#### **1.1 Background**

This chapter will cover some foundations of related thoughts on the sui generis of military service from two pillars: Civil-Military Relation (CMR) practices and constitutionalism. These pillars will be analysed through conceptual, theoretical, historical, doctrinal and leadership approaches. Meanwhile, the line of thought to be utilised is in philosophical realism. The related thoughts to be highlighted are the sui generis of military service, CMR practices, constitutionalism, the analogy of “the soldier and the state”, the nature of the military, the function of the military and the Malay Rulers, country and the military. In these aspects, numerous issues lead to the problem statement, which is determining the causes of why the sui generis of military service keeps declining and what should be done to honour it. This chapter will also cover research questions, research objectives, the significance of the research, convergence theory, limitations and delimitations and finally chapterisation.

In this context, the thesis will explore and utilise the philosophy of *sui generis* which is significant when one intends to compare the uniqueness of an entity as compared to others. This is suited to the concept and meaning of *sui generis* as explained by Lyria (2016), which is the one, the only and cannot be compared with. It is a common practice and belief that every entity, be it an organisation or department, will assert its uniqueness to differentiate it from other entities. In most cases, this philosophy is crucial for certain organisations, especially when they need to manage themselves according to their characteristics, cultures, and practices. It is also part of their identity, of which they are proud of it. In other words, they want their uniqueness to be recognised, preserved and respected, enabling them to stay relevant and appreciated by others (Oxford Dictionary, 1997). Realistically, they need this uniqueness as part of their identity, reputation, and pride and ultimately strengthen the sense of belonging among their members or personnel. Nevertheless, to a certain extent, the uniqueness of some departments is also the uniqueness of other departments. In other words, they share the same uniqueness despite belonging to different entities. This is where the *sui generis* of military service will be digested and analysed in in this thesis.

The sub-topic of the research is to clarify and justify the *sui generis* of military service and appropriately positioning the military within the systems and practices of a state. The research highlights certain issues leading to the problem statement that will be seen from two pillars, namely the malpractices in CMR and the misinterpretation of constitutional provisions. The two pillars are closely related and directly determine the effectiveness of the military, ethos, culture and values of military service. These two pillars and five selected approaches are frequently creating

significant issues for the research. The issues include the level of recognition of military establishment, the status of military service, and the role of the military in defending the state which leads to significant issues involving the military in particular. For this purpose, the sui generis of military service will be highlighted and discussed as a preamble to identify the problem statement and the gap in the research.

### **1.1.1 Some General Issues Related to the *Sui Generis* of Military Service**

Based on philosophical realism, conceptual, historical, cultural, doctrinal and leadership approaches of the military, the sui generis of military service is indeed the soul and backbone of the military of a state. Fundamentally, the sui generis of military service refers to military ethos and values. For this reason, the military service is unique, the only one. It cannot be compared to others or is one of a kind, belonging to or connected to one particular person or thing or different from all other people or things (Hornby, 2006). Hence, the state should be part and aware of this interpretation as the military belongs to the state. Therefore, the civil society of the state is to cohesively preserve, respect and honour the sui generis of military service, thus maintaining its effectiveness, ethos and values.

The effectiveness of the military is crucial in defending the sovereignty, national interests, citizens and territorial integrity of the state. These are the roles that the military should uphold for the state to progress, develop and prosper continuously. One of the main conditions for the state to progress is guaranteed security, peace and freedom from instability. Nordin (1994) stated that for this reason, the role of the MAF is a very challenging one. Apart from national defence, it is also involved in the process of nation-building. This is the basic condition for a state to move forward with its

agenda such as political stability, social development and economic prosperity. This is the spirit that is founding the existence of the military. Although the other state's public services also have certain kinds of uniqueness in terms of their duties and responsibilities, they do not possess the ethos and values that is sui generis in nature when compared to military service.

A significant number of articles concerning the military in the Federal Constitution signify the sui generis of military service. The Federal Constitution places the military as a special service compared to other types of public service. In this regard, the role of the military is to defend and uphold the constitution as stated in most of the world's military creed. It can be seen from the position of King as Supreme Commander of the Armed Forces as stated in Article 41 of the Federal Constitution, the existence of the Armed Forces Council (AFC) to command, discipline and administer the Armed Forces as stated in Article 137 of Federal Constitution, and for the purpose of the constitution, the military is considered one of the public services as stated in Article 132 of Federal Constitution. These are all meant to honour the sui generis of military service as the military philosophically belongs to the King, people and the state.

#### **1.1.1.1 Military and CMR Practices**

CMR is the fundamental concept that bridges the two different societies, the civil and the military. It can be considered as a platform to engage each other as both realistically exist in separate domains of society. Huntington (1985) argued that despite living in the same vicinity, the civil and military society are practising different sets of rules, regulations, laws, practices, cultures, characters, norms, values and behaviour.



The superimposition of any semi-civilian system will reduce the military consciousness and should not be tolerated. The soldier and the civilian belong to separate classes of society. The code of the soldier can never be the same as that of the civilian. Therefore, why try to mingle with them? This is the reality that is underpinning the relationship between the civil and military society that needs to be understood by both parties. A line of dichotomy exists between these two societies that are proportionately governing their relationship or interaction.

#### **1.1.1.2 Military and Constitutionalism**

Apart from its prominent role in defending the sovereignty and territorial integrity of the state, the military duties are to protect the constitution of the state as a national, social and civil obligation. This is one of the core values that the military should always preserve and uphold the constitution. From Malaysia's perspective, the constitution is also the source of the military's existence and its sole constitutional governing body, namely the AFC. The constitution is a sacred document that the military needs to understand to protect it accordingly. In 2010, the US Army White Paper highlighted that all soldiers swear to support and defend the constitution. Therefore, the military should be able to visualise their role in protecting the constitution, while at the same time, adhering to military-related matters constitutionally, legally and truthfully. The military should demonstrate that their adherence and compliance to the constitution is the most important value that should always be embraced.