

SOUND BITE (For the Lawyers)

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August 27, 2009

By Dr. Mahathir Mohamad

1. I am trying to find out whether the Constitution and Constitutional Law came into being by an Act of Parliament.
2. If they are when were they passed – before the founding of Malaya and Malaysia or after?
3. Did the Parliament create the Constitution or did the Constitution create Parliament?
4. If the Constitution is not created by Parliament, then who created it? Is it the Malayan Constitutional Commission? How did it become law?
5. I have asked people trained in law and ordinary people. They give conflicting views. Many just do not know. All they know is that it is there, that is all.
6. Perhaps some lawyers can enlighten me on this – gratis of course.

82 Comments

By tazsc  on [September 5, 2009 12:31 PM](#)

ramai kena blajar sjarah lg..betol2 ramai xphm sejarah..student2 pn memandang sjarah seperti subjek yg mboringkn..tambahan pula ckgu yg xpndai mngajar..abeh trus bdak2..ckgu sjarah kna mntap!baru stdent minat belajar..kerajaan kne baiki buku teks sjarah(bg detail2 sikit) n cikugu2 pn kne bg byk kursus..jarang skali dgr cikgu sjarah pergi kursus or camp apa2.

By nookvillage  on [September 5, 2009 9:49 AM](#)

Tun,

So far Abu Talib's reply is near exact.Tq.

By Tunku Sofiah Jewa  on [September 4, 2009 5:12 PM](#)

Beloved Tun,

Inna lillahi wa inna ilaihi raji'un. Takziah Tun, di atas perginya kekanda Tun yang di kasihi, Allahyarhamah Rafeah Mohamad ke rahmat Allah.

I learnt from the Star on the morning of 2nd September 2009 of the sad news that had just struck your family. I too have lost my own beloved elder sibling just days ago. My Abang Ismail would

have been 72 on Merdeka day had he not succumbed to melanoma 12 days earlier. The two of us had always been very close and the reality that he is no longer around continues to deeply anguish me.

I remember giving Tun a copy of “Tun Suffian’s An Introduction to the Constitution of Malaysia”, 3rd ed. Pacifica Publications, 2007, which was jointly edited by Prof Salleh, Yaacob and me. Chapter 1 of our edited version remains unamended as in Tun Suffian’s earlier edition and the answers you sought, Tun, had actually been dealt with by the late Tun Suffian at pages 11-12 of the book as excerpted below:

Independence on 31st August, 1957

The [Reid] Commission duly submitted its report which was published on 21st February, 1957. The British Government, the Conference of Rulers and the Government of the Federation then appointed a Working Party to examine it in detail. On the basis of their recommendations the new Federal Constitution, together with Constitutions for Malacca and Penang, was promulgated on Merdeka Day, 31st August, 1957, and thus the Federation of Malaya became an independent sovereign country.

The constitutional machinery devised to bring the new constitution into force consisted of—

- (a) in the United Kingdom, the Federation of Malaya Independence Act, 1957, together with Orders in Council made under it;
- (b) the Federation of Malaya Agreement, 1957; and
- (c) in the Federation, the Federal Constitution Ordinance, 1957, and (in each of the Malay States) state enactments approving and giving the force of law to the Federal Constitution.

On 31st July, 1957, the Federation of Malaya Independence Act, 1957, passed by the British Parliament had given parliamentary approval to Her Britannic Majesty concluding with the Rulers of the Malay States an agreement for the establishment of the Federation of Malaya as an independent sovereign country. In particular the Act empowered Her Majesty to terminate her sovereignty and jurisdiction in respect of the settlements of Malacca and Penang, and all her other powers and jurisdiction in respect of the Malay States or the Federation as a whole. Also, the Act empowered the conclusion of an agreement to form the Malay States and the Settlements into a new independent federation of states under a Federal Constitution.

On 5th August, 1957, the Federation of Malaya Agreement, 1957, was concluded between on the one hand the British High Commissioner on behalf of Her Majesty and on the other the Rulers. This agreement established a new federation of states called the Federation of Malaya consisting of the Malay States and the Settlements as from 31st August, 1957 (Merdeka Day) and thereupon the Settlements ceased to form part of Her Majesty's dominions and Her Majesty ceased to exercise any sovereignty over them, and all powers and jurisdiction of Her Majesty or of the British Parliament in respect of the Settlements or of the Malay States or the Federation as a whole came to an end. In the agreement were contained the new Constitution of the Federation of Malaya and the new Constitutions of Penang and Malacca.

The Federal Constitution Ordinance, 1957, was passed by the Federal Legislative Council to give the agreement and the three constitutions contained in it the force of law. Similarly, each of the

legislatures of the Malay States also passed State enactments approving and giving the force of law to the Federal Constitution.

Prof Salleh, Yaacob and I put our heads together in a tele-communication late last night on how best to respond to your questions, and we agreed that the answers posed by Tun may be summarised as follows:

Q1. I am trying to find out whether the Constitution and Constitutional Law came into being by an Act of Parliament.

Our Federal Constitution owes its existence to 3 sources – (1) an English statute, namely the Federation of Malaya Independence Act 1957, (2) an agreement between the British monarch and our Malay Rulers, namely the Federation of Malaya Agreement 1957, and (3) a series of our own laws, namely the Federal Constitution Ordinance 1957 and state enactments passed to approve and give force to the Federal Constitution.

Q2. If they are when were they passed - before the founding of Malaya and Malaysia or after?

Immediately prior to (on the eve of) Merdeka – the birth of an independent Federation of Malaya on August 31, 1957.

The UK statute (Federation of Malaya Independence Act 1957) was passed by the British Parliament on 31st July 1957. This Act terminated the Queen's sovereignty over Penang and Malacca and empowered the British Government to enter into the Federation of Malaya Agreement 1957 with the Malay Rulers. This Agreement was signed on 5 August 1957 by the British High Commissioner (on behalf of the Queen) and the Malay Rulers.

Q3. Did the Parliament create the Constitution or did the Constitution create Parliament?

The Federal Constitution created our Parliament.

Article 44 of the Federal Constitution states “The legislative authority of the Federation shall be vested in a Parliament, which shall consist of the Yang di-Pertuan Agong and two Majlis (Houses of Parliament) to be known as the Dewan Negara (Senate) and the Dewan Rakyat (House of Representatives).”

In short it is the Constitution that gives birth to Parliament.


Consequently, in our country (with a written constitution), the Constitution is supreme, not Parliament. In UK (where there is no written constitution), Parliament is supreme.

Q4. If the Constitution is not created by Parliament, then who created it? Is it the Malayan Constitutional Commission? How did it become law?

The first part of this question has been answered in Q1. The Reid Commission only recommended what should be in our Constitution. It was the Federal Constitution Ordinance, 1957, passed by the Federal Legislative Council which gave our Constitution the force of law.

With much affection to Tun, Tun Dr. Siti and the rest of your wonderful family. Selamat Berpuasa.

Tunku Sofiah Jawa


By Adam  on [September 3, 2009 10:20 PM](#)

According to what I have studied;

Constitution came first before the parliaments in Malaysia, the constitution gave power to parliament, in a very simple description.

Unlike Malaysia, the law of England has the "supremacy of the parliament".

Not a layman, but yet to be a lawyer

By abu talib  on [September 3, 2009 1:54 PM](#)

Dear Tun

The present Constitution has its roots in the Federation of Malaya Agreement 1948 signed between the Rulers and the British. In a sense it is the grund norm to the present Constitution.

The Constitutional Bill was passed by the new Federal Legislative Council. It was drafted in 1956 by a Commission set up to formulate a draft and refine the Constitution of the Federation of Malaya and chaired by Lord Reid

The Federal Legislative Council approved the Bill (chaired by Lord Reid and the constitution was declared on 31/8/1957, which established Malaya as an independent and sovereign country. The Council is the precursor to the present Parliament.

The Federal Constitution of Malaysia is based on the Constitution of the Federation of Malaya 1957. It was declared on 16/9/1963.

By goggie  on [September 1, 2009 10:32 PM](#)

akee said, BN is the Law here in Malaysia, so if PKR took over PKR is the Law.....what a stupid analogy!

By YangBetul  on [September 1, 2009 5:09 PM](#)

Salam Tun yg saya hormati & pembaca semua,

TO ALL OF YOU, WILL YOU BELIEVE THAT OUR DEAREST TUN DOESN'T KNOW THE ANSWER TO HIS QUESTION??? HE'S THROWING THESE QUESTIONS TO ALL OF US (OR SPECIFICALLY TO LAWYERS AS MENTIONED) TO THINK AND PONDER. SO THINK ALL MY FRIENDS.

YANG BETUL TU BETUL LAH. WASSALAM

By samuraimelayu  on [September 1, 2009 3:43 PM](#)

SALAM AYAHANDA RAKYAT TUN
IZINKAN,

By wajaperakAuthor Profile Page on September 1, 2009 10:00 AM

Dengan izin Tun..Terima kasih..

Abg Kamal Ahmad.

Sudi tak abg terangkan peranan Peguam Melayu dan Persatuan Peguam Islam.

ADIKKU WAJAPERAK,
ABG KAMAL AHMAD TIDAK PERLULAH TERANGKAN. HAMPIR SESUAI SANGAT
PERUMPAMAAN2 YANG YANG DINYATAKAN OLEH ADIKKU...ABG
SAMURAIMELAYU MOHON TAMBAH SATU LAGI GUBAHAN
TERSENDIRI...BERMUKA TIADA BERWAJAH.

SELAM RAMADHAN KEPADA ADIK SEKELUARGA. SEMOGA DILIMPAHI CAHAYA
'LAILATUL QADA' KEATAS KALIAN SEMUA..INSYAALLAH.

ALFATIHAH, AMIN.

By soyacincau  on September 1, 2009 1:44 PM

salam TUN..

slamat menjalani ibadah pose dan selamat hari MERDEKA ke-52..

TUN..

saye heran. MALAYSIA mempunyai ramai lulusan kolej atau universiti. dan kalo 'loyer' tu. semestinye lulusan universiti yang dalam tangannye paling kurang de LLB. tapi xtau r nape leh xpaham pe yg TUN tanye. bg saye. sebenarnye dorg bukan xpaham. tapi bodo sombong. bg saye yg xde degree LLB ni. saye paham pe maksud TUN. TUN nak kite pikir. TUN sebenarnye nak uji. sejaoh mane ilmu yg 'ENCIK-ENCIK YANG BIJAKSANE' ni dalam bidang yg 'ENCIK-ENCIK YANG BIJAKSANE' ceburi. nampaknye hampe dan hampeh. soalan yang TUN tanye tu. soalan dalam kursus undang-undang di mane2 unversiti. kepada 'ENCIK-ENCIK YANG BIJAKSANE'. jangan pikir kite saje yg cerdik n pandai. de lg org laen yang cerdik n pandai dari kite. saye teringat kawan saye penah kate. org cerdik pon. de gak bodaye. dan bodo org cerdik lebih teruk daripada org yg kurang cerdik. dan sememangnye terbukti di sini. kesian..

wasalam..

By wajaperak  on September 1, 2009 10:00 AM

Dengan izin Tun..Terima kasih..

Abg Kamal Ahmad.

Sudi tak abg terangkan peranan Peguam Melayu dan Persatuan Peguam Islam.

Bagi orang kebanyakan macam saya mereka ini tak ubah seperti :


Melukut di tepi gantang
Masuk tak tambah, keluar tak kurang.

Tepuk padi hampa
Bunyi kedengaran, isi tiada.

**Jadi Golok Kayu.
Tetak Tak Lut,
Jual Tak Laku.**

Berguru kepalang ajar,
bagai bunga kembang tak jadi..

Terima kasih abg
Terima kasih Tun.

By HBT  on September 1, 2009 9:14 AM

//By macpherson on August 31, 2009 6:17 PM

lets just be short n concise here don't try to complicate further n give ideas to those who are already confused and unstable! lets just stick to what we already have if its from the queen of England its even better at least we have it made in England.//

Dear macpherson,

Made in England? You mean sending all the "people in charge" to re-learn "Perlembagaan Malaysia" in England again, very expensive lah. By doing this, Ruling & Opposition will sure "Kalah" in next PRU.

The best solution to this crisis is GENERAL ELECTION in PRU 13! BN and PR Leaders are human beings like you and me, they too made mistakes. Give them time to PREPARE and LEARN to adapt to New Era.... under 1970 Rukun Negara, simple and straight forward because Malaysians are used to this My.Constitution.

By macpherson  on August 31, 2009 6:17 PM

lets just be short n concise here don't try to complicate further n give ideas to those who are already confused and unstable! lets just stick to what we already have if its from the queen of England its even better at least we have it made in England.

By ekompute  on August 31, 2009 2:29 AM

Hi Tun, I find it rather odd that you should be asking this question today and not during your 22-year tenure as Prime Minister.

If the validity of the Constitution and Constitutional Law has no legal basis or in doubt, just rectify it... simple as that. However, given that through the years, the validity of the Constitution has never been questioned, it has become valid through implied action or rather inaction. As a matter of fact, the Constitution of Malaysia has been amended over 600 times since independence such that as it stands today, it bears little resemblance to the Constitution of 1957. So why are we harping on something that no longer exist?

By kamal ahmad  on August 30, 2009 10:47 PM

Komen ini saya tujukan kepada semua peguam/pengamal undang-undang Melayu yang melayari posting ini kecuali komentar saudara Ceylonese Lawyer.

Tak kira anda Datuk atau Tan Sri, sekiranya minda hanya ditumpukan kepada penjelasan teknikal tanpa pemahaman intipati dan rohaniah soalan Tun, maka anda adalah KEPARAT MELAYU!

Mereka yang hanya tahu mentafsir babi buta tanpa tahu mendebat untuk mencari, mencungkil, menulis kebenaran yang tersirat. Manusia seperti anda semualah yang telah merosakkan bangsa Melayu dan Malaysia ini! Menidakkan Ketuanan Melayu hanya melalui definasi teknikal dan pemahaman pendek buku teks penulisan penjajah!

Puak seperti anda, intelek yang lupa akar umbi tidak ramai sebenarnya. Jika berlaku kegagalan pada sistem tersedia ada negara, apa pula agaknya laungan anda? Masuk puak Melayu atau Bar Council? Inilah sebabnya peguam Melayu hampir 90% tak boleh cari makan litigation. Kalau tak conveyance, jual insuran. Cakap buku teks berapi! Cuba litigate tengok kalau tak kecut telur ke dagu kena baham dengan India dan Singh!

Sedarlah wahai saudara Melayu ku yang lain yang masih lagi berjiwa Melayu! Jangan biarkan tafsiran daripada pentafsir bacul sebegini menjadi moral dan maruah diri Melayu kita hari ini! Tafsir kita mesti berani untuk mencari dan terus mencipta kebenaran berasaskan fakta dan tidak gentar menyebut dan mengakui hak kita!

Ada lagi Melayu yang sanggup jual hak bangsa demi untuk "Keadilan". Hanya berani berkata-kata dalam sangkar pendidikan aristokratik tanpa berani menulis pengajaran baru untuk Melayu hari esok. Macam kata Pak Belalang, "A failed race!"

Saya harap Tun sudah dapat jawapan yang sememangnya Tun telah pun tahu. Persoalan Tun sebenarnya adalah untuk berpantun kiasan Melayu cara Tun sebagai didikan pengajaran Hari Merdeka kepada kita semua. Terima kasih Ayahanda Tun. Kami sangat menghargai posting ini. Semoga mereka semua telah sedar!

Cemperai di pohon Delima,
Anak Tupai berpuak-puak;
Bermisai kusangka Panglima,
Rupanya misai penapis tuak!

By Hajar  on [August 30, 2009 8:31 PM](#)

Dearest YAB Tun,

Tun, if you agree to pay the lawyers, I believe they will be happy to enlighten you on this matter..*it's not free of course.*

**** May Allah SWT bless Tun & family ****

By samuraimelayu  on [August 30, 2009 7:02 PM](#)

SALAM AYAHANDA RAKYAT TUN
IZINKAN,

By Nothing but windAuthor Profile Page on [August 30, 2009 11:16 AM](#)

Dear Tun Dr M,

Please allow me to address Ceylonese Lawyer.


I am puzzled as to how naive and ignorant a (Ceylonese) lawyer can be. For your information,\$ you would be termed as "Sri Lankan Malaysian" in Malaysia.

ARE YOU REALLY A 'NOTHING BUT WIND'?..NO, BUT A TRULY MALAYSIAN UNDER A PSEUDONYM..AND TO OUR MACHA THE 'CEYLONESE LAWYER' WE SAY 'ROMBA NANDRI' (THANK YOU) FOR THE INFORMATION PROVIDED.


WANNAKAM (GREETINGS)

By johari38  on August 30, 2009 4:22 PM

What “Nothing But Wind” says is true. The term “Ceylonese” may have been abandoned 30 years ago but Ceylon Tea is still going strong ...and so is the spirit of these Malaysian Ceylonese. But to answer Chang’s query. I think I know this man- he is a prominent KL based lawyer and son of a senior civil servant – now retired. I was at a forum hosted by a management consultant where he was a speaker and was quick to correct the host when she called him an ”Indian”. I remember because it was after Pak Lah’s stunning 2004 victory. The guest of honour was Kalimullah and other friends of Pak Lah. When most of the crowd were heaping praise on Pak Lah he gave a very clear presentation of the role of government in a modern economy and how each of the former PMs expect Pak Lah filled these roles correctly for their time. He ended by a conclusion that Pak Lah’s illusion would fade and that he and his illusionists would be rejected even to the point of losing the 2/3rds majority. Yes he is the same person who authored the article on the Legal Standing of the Social Contract which was on a number of Blogs and who reminded us Malays of our concessions and what we got in return and the legal standing of all that. If that’s him on Tun’s blog he is indeed very Malaysian and I won’t call him naïve at all.

By Chang67  on August 30, 2009 3:22 PM

I am curious to know who is this Ceylonese lawyer. Does anybody know him. He writes with a very clear sense of objectivity. I wonder if he is the same person who wrote in a Blog explaining the legal standing of the social contract and Malay rights. It would be good if more Malaysians and Malays understood their rights as he does... Is he really Ceylonese ?

By Chang67  on August 30, 2009 11:59 AM

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By Nothing but wind  on August 30, 2009 11:16 AM


Dear Tun Dr M,

Please allow me to address Ceylonese Lawyer.

As far I know, the term Ceylon was withdrawn about 3 decades ago. So, the country known as Ceylon became Sri Lanka.

Furthermore, I did not come across Ceylonese lawyers practicing in Malaysia. Maybe this "this Ceylonese Lawyer" is an exceptional case.

I am puzzled as to how naive and ignorant a (Ceylonese) lawyer can be. For your information,\$ you would be termed as "Sri Lankan Malaysian" in Malaysia.

By Nothing but wind  on August 30, 2009 11:15 AM

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By JaneTI  on August 30, 2009 7:48 AM

Dear Tun,

1. Thank you for bringing up this topic.
2. It is a good discussion point.
3. As far as I understand, at our current stage now , it is impossible to amend the constitution in parliament because to do so there should be two third majority. Why? Everybody knows why... Unless the opposition and the ruling party decide to agree to a pact (nahhhh...)
4. I am not sure whether in the next 100 years the constitution will be the same.
5. Thank you to the lawyers who gave their answers gratis.
6. Wassalam.

By MALAYSIADREAM  on August 29, 2009 6:29 PM

Jawapan:

Pada tahun 1946, Kerajaan British telah memperkenalkan sebuah kerajaan baru..tapi ditentang hebat..akibat itu..digantikan dengan satu "perjanjian" yang melahirkan Persekutuan Tanah Melayu pada tahun 1948 bagi menubuhkan sebuah "Kerajaan Pusat" . Pada tahun yang sama yakni tahun 1948, Perlembagaan Bertulis diperkenalkan di semua negeri Melayu (kecuali Johor dan Terengganu), Pulau Pinang dan Melaka..!

Perlembagaan Johor dibuat dalam tahun 1895..Terengganu pada tahun 1911.Perjanjian Negeri telah dimeterai antara tiap-tiap Sultan dengan British ..Sultan-sultan bersetuju memerintah mengikut Perlembagaan Negeri dan juga mematuhi peruntukan Perjanjian Persekutuan 1948.

Perjanjian Persekutuan telah menyatakan Hasrat kerajaan British dan sultan-sultan bekerjasama ke arah " pemerintahan sendiri bagi tanah Melayu". Selaras dengan ini, Pilihanraya Umum pertama dijalankan pada tahun Julai 1955, Parti Perikatan menang 51/52 buah kerusi dan Tunku sebagai Ketua Menteri..!

Kemenangan memberi Mandat kepada Parti Perikatan mulakan rundingan "Kemerdekaan Tanah Melayu" . Pada tahun Jan 1956, satu Rombongan ke London diketuai Tunku berunding

kemerdekaan , akhirnya kerajaan British setuju isytiharkan " Merdeka Tanah Melayu" pada 31 Ogos 1957.

Rombongan persidangan London setuju pembentukan sebuah suruhanjaya menggubal Perlembagaan baru bagi Tanah Melayu yang merdeka dan berdaulat..Suruhanjaya dikenali sebagai

" Suruhanjaya Reid" yang diketuai Lord Reid..telah kemukakan satu Rang Perlembagaan pada Feb 1957 ,

Rang Perlembagaan dikaji oleh Jawatankuasa Kerja yang terdiri:

- 1) 4 orang wakil raja-raja dan
- 2) 4 orang wakil Kerajaan Parti Perikatan

Rang yang dipinda itu diluluskan oleh Majlis Perundangan pada 15-08-1957.

Oleh sebab inilah, Suruhanjaya Reid (Lord Reid)yang dibentuk pada tahun 1956 telah merangka "Perlembagaan Baru" bagi Tanah Melayu. Parlimen tidak cipta Perlembagaan..dan Perlembagaan juga tidak dicipta/diluluskan Parlimen..!

Perlembagaan dirangka/dicipta Lord Reid..atas 1 suara Rakyat pilihanraya 1955 bagi Malaya..dibawah Parti Perikatan yang diluluskan oleh Majlis Perundangan pada 15 Ogos 1957 di mana telah berjaya mencapai Merdeka..Merdeka..Merdeka..pada 31 Ogos 1957..!

By Tahir Jumat  on [August 29, 2009 3:33 PM](#)

Assalamualaikum Tun,

Well Tun, Muslim should by now know that it doesn't matter which come first, parliament or constitution.

Simply because these are man made laws which were made to protect certain group of people who have various interest, be it financial, power or status and so on.

To me ,as these are man made laws, it can be altered, change, revised or simply ignored,(which happens most of the time,all over the world) so Malaysian shouldn't be too carried away with it. Even God's law are superceded by Gods latest Revelation eg.Zabur to Torah to Bible and finally ALQURAN the final revelation, just as an example for us to ponder.

So my point is that Malaysian shouldn't waste time worrying about the constitution, if need be amend it, if necessary change it totally to be practical with present time. After all its human made which is never perfect.

I truly like Tun's statement that says we can be Fair but not Equal.

Even worse of all if the first ever constitution of the land was penned by foreigners, so unreal it seems, its time to abolish it and have a new one that suits the time.

Malaysians, you should all be ever Grateful to Almighty for having given Tun as a Malaysian.

Tun the incomparable, unmatched.

Even Gods law are flexible.

May Allah Blessed You Tun and Family always.

By samuraimelayu  on [August 29, 2009 12:20 PM](#)

SALAM AYAHANDA RAKYAT TUN
IZINKAN,

By pakbelalangAuthor Profile Page on August 27, 2009 11:29 PM

Dear Tun M,

Setelah membaca kenyataan akhbar dari pihak MCA saya rasa keputusan yang di buat oleh parti itu memecat Dr Chua adalah tepat sekali.

KAMI SOKONG.. PEMIMPIN YANG KORAP DAN MEMPUNYAI AKHLAK YANG DIRAGUI HENDAKLAH DIPECAT ATAU BERUNDUR DARI MENJADI PEMIMPIN... LUPA PULA NAK MENYEBUTKAN, TERMASUKLAH MEREKA YANG MENGELIRUKAN DAN MENGHIANATI BANGSA DAN AGAMA.

MAKA KAMI RAKYAT NEGARA YANG TERCINTA INI MENCABAR SEMUA PARTI POLITIK TIDAK KIRA BN ATAU PR MENCONTOHI TINDAKAN MCA..SYABAS ONG TEE KIAT.

ALFATIHAH, AMIN.

By [ManafMubarak](#) on August 29, 2009 11:43 AM

Assalamualaikum..

Majlis Peguam Malaysia dilahirkan kemudian daripada perlembagaan kita. Perlembagaan kita adalah tonggak demokrasi Negara yang berasaskan raja berperlembagaan dan demokrasi berparlimen. Perlembagaan kita adalah hasil rundingan antara penjajahan British dengan raja-raja melayu yang disertai pemimpin Parti Perikatan.

Draf Perlembagaan itu telah disediakan oleh satu Jawatankuasa parti-parti UMNO, MCA dan MIC yang dipengerusikan Tun Abdul Razak.

Perlembagaan itu telah dipersetujui oleh rakyat Malaysia melalui unifesto perikatan yang menang dalam pilihanraya 1956 apabila perikatan menang 51 kerusi daripada 52 kerusi yang dipertandingkan. Perikatan kalah kepada PAS dikawasan Kerian. Tuan Haji Ahmad Tuan Hussin daripada PAS mengalahkan Tuan Haji Sulaiman Palestin daripada Perikatan.

Perlembagaan kita digubal berperingkat-peringkat dan ditapis berperingkat-peringkat. Pada masa itu, Majlis Peguam belum lagi wujud. Malah kebanyakan ahli-ahlinya belum lagi lahir ke dunia.

By [matuji](#) on August 29, 2009 6:51 AM

Assalamualaikum Ayahanda Tun Dr M,

I believe you already have the answer and will share to us soon, but I think you just want to teasing lawyers (indirectly to BAR council).

wassalam dan selamat menjalani ibadah puas, semoga Allah panjangkan usia Tun dan isteri.

Ruzi

By [RazlanIsa](#) on August 29, 2009 1:20 AM

A "Ceylonese Lawyer" an expert in Malaysian law and our nationhood? What happened to Malaysian lawyers? Maybe its one of those Malaysian-Chinese, Malaysian-Indian, Malaysian-Ceylonese... One Malaysia? Long way to go.

By [Jamal](#) on August 29, 2009 1:13 AM

Dear Tun,

Its not possible that you do not know the answer to your question. The question I believe is directed to all readers and may be even the Lawyers.

As mentioned by Ceylonese Lawyers the Malaysian Constitution was a model of the British Constitution. The Constitution was right for the British people with elements made to suit us at that point in time.

But as proven it is not really the best for Malaysians of today and the future. However, it did serve Malaysia well in our infancy of nation building.


Malaysia is an independent "adult" nation. It maybe time that we relook the constitution. Should we gradually amend it to fit more precisely to the needs of our nation at the present time to bring us into the future.

Antiquated laws should be dumped and relevent ones introduced. Laws that will fit Malaysia better.

Lets look at putting in laws that the people themselves want to be introduced for them. Lets not let ourselves be drag back by old British laws that are no more suitable to our mindset and perspectives.

Laws such as the ISA, judicial processes that are not productive, introducing islamic elements to suit the Muslim communities, etc...

Are we mature enough to change?

By S..Tan  on August 29, 2009 12:53 AM


Dear Tun, salam Ramadan selamat berpuasa harap sihat.

.....SECRET POLL

This is a good test how many lawyers really read this blog or care about it enough to write. Initial results shows mostly pensioners, students, party diehards and some mavericks?

Amazing the comments sent here all this while staking their 'rights' are from these non-lawyers (un-learned on the subject).

This question is not as innocent as it looks.

By zynos  on August 29, 2009 12:46 AM

I am not a lawyer but I will try to answer.

1. An Act of UK Parliament
2. Before founding of Malaya and Malaysia
3. UK Parliament created Constitution of Malaya, which then created our Parliament, which can change the Constitution by 2/3 majority. The Constitution was later changed to Constitution of Malaysia (I wonder what the majority like when it was changed to Constitution of Malaysia).
4. Constitution is not a law. It is something that we, the citizen of Malaysia, are to uphold. (Prinsip-prinsip RUKUN NEGARA - 3. Upholding the Constitution 4. Rule of Law).

Regards.

By [Tuanku](#) on August 29, 2009 12:19 AM

TUN,

ASSALAMUALAIKUM WARAHMATULLAH HI TAALA WABAROKATUH

The Rakyat understand BN govt created two set of laws over 52 years since Merdeka. First law is for BN politicians, leaders and her cronies to be above the Constitution laws and untouchable by their authorities under their instructions and orders. Second law is for Opposition politicians, leaders and normal citizens to be below the Consitution laws and subject to be arrested under ISA by their authorities if they go against the First Law.

So it is not a question of egg comes first or chicken comes second because many bad BN leaders are too arrogant, greed, corrupt, abused power, untouchable and seldom respect the rules of Malaysian law for many years. Similar, the Rakyat also noted the increased of high crime rates are because the authorities like PDRM and MACC have broken the laws in the eyes of the Rakyat. For instance, we read policeman was sentenced to 7 years jail only for raping and murdering a Malay young girl . The witness late Teoh's was tortured and caused his life in MACC's hands.

Today "Selamat Merdeka" is a historic slogan only when the Rakyat rasa tidak selamat lagi di sisi undang undang di Malaysia.

By [mohdnoorsharuddin](#) on August 28, 2009 7:08 PM

salam tun...xleh ke klu kte haramkan je lawyer2 ni dari menceburi bidang politik???.mcm bias je lawyer2 ni sy lihat...so apekate ktte jalankan undian???

By [samuraimelayu](#) on August 28, 2009 6:25 PM

SALAM AYAHANDA RAKYAT TUN
IZINKAN,

By [hesmel](#) Author Profile Page on August 28, 2009 7:48 AM

Salam..

Dear Tun,

Salam Ramadhan..

I beg to differ. You should have done it when you were still the Prime Minister.

Thank you.

HESMEL FAZNEE FAISAL,

DID ANY PARTY QUESTIONED THE CONSTITUTION WHEN AYAHANDA TUN WAS PRIME MINISTER BACK THEN?

DIMANA BUMI DIPIJAK DISITU LANGIT DIJUNJUNG.

ALFATIHAH, AMIN.

By [samuraimelayu](#) on August 28, 2009 6:12 PM

SALAM AYAHANDA RAKYAT TUN
IZINKAN,

By kamal ahmadAuthor Profile Page on August 27, 2009 10:53 PM

Salam kasih dan salam hormat Ayahanda Tun.

.....

It begins with our Raja-Raja Melayu and it shall return to our Raja-Raja Melayu.

....

Made sense Tun? Very good and excellent Sir, that makes for two of us.

SAUDARAKU KAMAL AHMAD,

WE WOULD LIKE TO BE COUNTED TOO, THANK YOU.

RENDANG MINANG KAMI MASIH ADA 'STAND-BY' UNTUK BERBUKA NANTI.

SELAMAT MENUNAIKAN IBADAH PUASA DIBULAN RAMADHAN.

ALFATIHAH, AMIN.

By [Rimba Emas](#) on August 28, 2009 4:36 PM

Salam buat Tun berdua moga dirahmati Allah s.w.t.

- 1)Sudah tentu undang-undang kita adalah tinggalan bekas penjajah kita iaitu Brittis.Waima perdana menteri pertama kita pun lulusan undang-undang barat.
- 2)Pembelajaran sistem pemerintahan kita semuanya 100% barat,mungkin dalam kurikulum pembelajaran untuk lulus undang-undang itu diceritakan sedikit undang-undang Islam tetapi telah dimodankan oleh falaisauf seperti Imam-imam mazhab.
- 3)Jadi kita banyak mengikut pendapat buah fikiran ulama-ulama yang banyak mengkaji riwayat-riwayat falaisauf silam.Mereka terpaksa mengkaji hadis-hadis yang bercampur aduk sahah dengan tidak sahah malah ada yang merupakan cerita dongeng bersumber Israilat.
- 4)Oleh sebab kita telah menerima ilmu undang-undang barat yang juga mengajar ilmu agama Islam yang ditulis oleh seorang Islam yang berbangsa Inggeris,maka nukilannya sudah tentu terbatas kepada kajian falaisauf melalui riwayat yang tiada tapisan atas nafsu seperti milik Nabi Muhammad s.a.w.
- 5)Berlainan dengan Nabi Muhammad s.w.t yang hanya menyampaikan kata-kata Allah s.w.t.berpandukan al-Quran 100%.
- 6)Oleh itu kita sentiasa diingat kembali kepada Al-Quran jika muskil dengan fakwa-fatwa yang berlainan pendapat.

7)Rasanya ketetapan Agama Islam keatas negara kita adalah tidak seiring dengan undang-undangnya akibat lebih memihak kepada pendapat masyarakat ramai dari kehendak Allah s.w.t,disampaikan oleh Rasulnya melalui kitab Al-Quran.

WALLAHUA'LAM

By [nash](#) on August 28, 2009 2:40 PM

Salam Tun

Macah mana ni Tun dah separuh abad merdeka baru timbul cerita ini. Jangan silap langkah nanti pihak tertentu ambil kesempatan dan Melayu akhirnya yang akan rugi.

Terima kasih

By 'Manusia Biasa' on August 28, 2009 2:34 PM

Salam Tun Seisi Keluarga,

I think the constitution came before the founding of Malaya. It's a colonial initiative based on English Law pass through the 1st Parliament for endosement. Maybe. Hmm..

Manusia Biasa

By [sikenit](#) on August 28, 2009 1:29 PM

Salam Tun and all,

1. The Ceylonese Laywer gave quite a good answer. unfortunately- its a "Ceylonese Lawyer" - what??? Not a MALAYSIAN Lawyer? Wheres Karpal et al??? No time to answer? Too good to answer? Don't know what to answer? Aiyyyaaa..... Mr Karpal and family is a disappointment laaa.. I thought they would be the first to respond as they are THE leading lawyers in Malaysia.

2. Anyway, TUN- you are clever. Your backhanded way to make us think about the roots of our country's constitution is commendable because you made it out as if you don't know. For someone who helmed this country for 22 years I am quite sure that not many things escaped your analytical brain, what more laws and constitutions.

3. So Tun, I rest MY case.

sikenit.

p/s: During the recent spate of PRKs, PAS and PR won back their seats which they won in 2008. There's **no new seats added**. Whats the fuss??? So, pro-umno- lets not cry victory for PR just yet, ok???

By Najmi Mat Sarit on August 28, 2009 12:54 PM

Salam TUN & all surfers,

Saya terfikir kenapa dahulu masa saya sekolah rendah tak pernah di tegaskan pentingnya untuk belajar sejarah. Sekolah rendah tak ada subjek sejarah... oleh kerana itu rakyat yang dewasa hari ini tidak mementingkannya... mereka rasa apa yang di miliki kini hanyalah datang dengan mengangkat tangan di Dataran Merdeka dengan laungan MERDEKA! Kita harus rombak

struktur pembelajaran kini sekarang... tertanya mengenai Sejarah, sukatan subjek Sejarah sekarang harus dirombak.... agar wujudnya generasi2 baru yang lebih memahami dan lebih menyayangi Malaysia-Negara Tercinta!

Najmi Mat Sarit

By [B0B](#) on August 28, 2009 12:45 PM

Salam kasih dan salam hormat Ayahanda Tun;please allow me to jot something here.... I see History as a relay race in which one of us, before dropping in his tracks, must carry one stage further the challenge of being a man. Isn't it amazing the way the future succeeds in creating an appropriate past? A mere compilation of facts presents only the skeleton of History; we do but little for her if we cannot invest her with life, clothe her in the habiliments of her day, and enable her to call forth the sympathies of succeeding generations.

May God Bless You & Happy Ramadhan!!!
<http://time-management-solutions.blinkweb.com>

By [ezani](#) on August 28, 2009 12:07 PM

Salam Tun

I find this an interesting question indeed and am quite surprised that after 22 years as Prime Minister and after reading many books you do not know. I do not know either and the startling fact from your bringing this up is that perhaps many politicians and lawyers of Malaysia do not know either and simply accept the status quo (this is purely my opinion which I hope someone can clarify with solid evidence).

However I think you are a very, very bright person in using your blog to get input from the thousands of chedet readers who are avid readers of your articles (coming from a man of your insight and wawasan) - ultimately perhaps there may be a few qualified lawyers or people who know, that will reply to answer your request.

Although I own up to not being a lawyer although I did some basic law (UK Common Law, UK Tort, UK Companies Act) when I did my chartered accountancy and ACCA (certified accountant), I would like to propose my suggestions to you.

First of all, I believe the first, best person to ask is Tunku Abdul Rahman (although I am unsure whether he can still explain legibly at his old age now) and how he conducted the Federation of Malay States's independence process back in 1957 and especially what kind of agreements he arrived at with the British to get independence for us.

Next, I suggest probably going through the National Library or get some of your lawyer friends and associates to suggest some good books on this topic. I am sure they are able to do so.

I would also like to suggest that perhaps you could review the independence forming process of other Commonwealth nations with a background similar to Malaysia (perhaps look at Ceylon and India) to see how their consitution and parliament were founded.

In my opinion, I believe the process is similar to Iraq in that our former colonial masters having decided to leave their colony would have pulled together a team (or commission) probably

comprising of some British (or US in the case of Iraq) imperial legal experts at the time and the main leader representatives for each of the major races in The Federation of Malay States (before it became known as Malaya) who then sat down together to draft a constitutional base. I am not sure about this so you will have to confirm with TAR. From recalling my History lessons in school, which was a very long time ago, I believe the British formed the Reid Commission, to look into the creation of a constitution before it decided to give independence to what it called at that time The Federation of Malay States - so it was already initially based on a federal structure overlooking state and local governments. The main point to note is that it must have first passed through and gotten the agreement of Westminster Abbey (UK Parliament) before an Act could be enacted by them to form a federal constitution for the Federation of Malay States, which was one of their colonies at that time. So the British Parliamentarians gave us our constitution! That was how the British saw it and this federal state structure has stuck in our Constitution ever since. I also note that Her Majesty Queen Elizabeth II being the official ruler of Britain at that time held sole discretionary powers relating to laws affecting the Federation of Malay States and almost all things had to get her approval.


As an afterthought, I believe as masters of our own country having gained independence from the British, we are free to determine our destiny and chart our own constitution. I believe the British gave us our Constitution as an initial guidance so that we could govern our country well initially, but after that it's up to us! Henceforth, we should not stick to any clauses which are not suitable to us but I believe the Reid Commission did their research really well before drafting and most of the clauses should be relevant (at that time). However as a country dynamically progresses, its Constitution should progress (and change) accordingly.

Perhaps it is high time we review the effectiveness, basic structure and direction of our constitution (if any politicians have any free time!) but I would doubt the existing Government can do this in a totally fair and neutral manner as compared to an external third party like our past British ex-colonial masters. However, I welcome any changes that will make our country more compliant to the laws laid down by the Al-Quran and the hadiths.

After browsing (most) of the 32 replies, I note that Ceylonese Lawyer((August 27 11:18 PM), L_J (August 27 9:09 PM) and CMMAK (August 27 8.32 PM) appear to give the best answers which merit further research. However it seems L_J studied law so I would take up his answer that an imperial act created the federal constitution which then created the Parliament where Parliamentarians (or law makers) can discuss the constitution in a democratic manner. It makes sense!

So in answer to your question, the British Parliament enacted an Act to transfer rule from the British Govt to the Federation of the State of Malaysia government with the condition that it adopts a set of constitution that had been drafted out (which included the formation of a Parliament). The Parliament is a building (or infrastructure) which was later formed by the new rulers to adopt and debate the constitution so adopted. However I believe the condition of forming or creating a Parliament to debate laws found in the initial constitution was actually a clause (albeit an important one) that existed in the original agreement with the British Government. I also believe that the federation-state combination is a feature unique to The Federation of Malay States in the constitution handed down by our past British masters to us and that we should in a way be grateful to them for handing down to us a set of "guidelines" without charging us anything!

ezani

By HBT  on [August 28, 2009 10:59 AM](#)

//By pakbelalang on August 27, 2009 11:29 PM

SATU KEPUTUSAN YANG BIJAK SEPERTI MANA TUN M MEMBUAT KEPUTUSAN TERHADAP ANWAR. JALAN CERITANYA ADALAH SEAKAN-AKAN SERUPA, CUMA AKTORNYA BERLAINAN!! KITA TIDAK BOLEH KOMPOROMI TENTANG MORAL PEMIMPIN. TIDAK MENGAPA KALAU PUN RISIKO POLITIK SANGAT TINGGI KERANA POPULARNYA KEPIMPINAN MEREKA. TIDAK ADA MAKNA KITA DAPAT PEMIMPIN YANG RENDAH MORALNYA//

Dear Pakblelang,

From your comment, it's look like you already punished Anwar & Chua SL by pushing them to the corner, like kamal ahmad said, if a rat is being pushed to the wall, it will fight with nails and tooth, that's a BIOLOGICAL factor which we may look in as the decent Rakyat, I am sure good lawyers have this Heart!!!! Laws are rigid, people are flexible. A "good lawyer" must have Heart to win the case!!!!

Please do not repeat the "mistake" done to Anwar on Chua SL. We are now leaving in the New World whereby "HARSH & DICTATOR" style will not win the heart of people. Selamat Berpuasa PakBelalang, You are Pak Belalang, Not Pak Lalang, aiyah sama jugak dgn stail Anwar, tak de pendirian!!!!

Good day Tun Dr Mahathir. I have nothing to say on this sound bite. "Perhaps some lawyers can enlighten Tun Dr Mahatir on this - gratis of course", berani ke mereka????

Rgds,

Fleet Market Admiral,sama fungsi dengan Kamal Ahmad, and selamat berpuasa En. Kamal Ahmad....

By ogos31  on [August 28, 2009 10:39 AM](#)

Dear Tun,

Saya kerap sekali melayari chedet.com semasa zaman pentadbiran Tun Lah kerana bagi saya masa langsung tidak confident dengan penjelasan dan kenyataan yang dikeluarkan oleh barisan pemimpin kita..semakin saya dengar ucapan dan kenyataan semakin hati saya sakit.

Selepas naiknya PM baru..saya stop visiting chedet.com sebab tgh confident dengan gaya kepimpinan PM baru kit..

Tetapi...sekarang saya tiap-tiap hari layari blog chedet.com...maksudnya....saya dah mula tak confident dah....

Saya hanya nak yang terbaik untuk negara saya....Please Tun do u have any advice kepada anak-anak muda yang berdarah panas ni untuk terus kekal berbakti kepada negara..tanpa terpengaruh dgn anasir luar dan dalam yang mempunyai agenda politik memntingkan diri sendiri....?

By abbas  on August 28, 2009 10:38 AM


Today, Rarunasalam, have lot of of questions, nampak!.

“Wee-wee-willow-wickety..errr..wicky-won-wackety...or is it, winny- wack -williby?”...this is a spell from Witch Wumpet, taken from my son’s Bedtime Stories. Psst; she can never remember the right words for a spell! , my son enjoys her blunder, oops, can help it there is one more spell,..”minny-mon-moony”....

Wee-weet,.I am putting on Tun’s smile right now.

Saya tidak tahu, saya bukan Lawyer.Tapi saya akan buka blog Tun untuk ambil tahu dan baca mana-mana komen yang beri saya pengetahuan.Saya rasa yang Tun tahu. Geli hati bila orang tidak tahu nak komen apa, sebalik nya kupas-kupas tulisan Tun hanya untuk patahkan balik pada Tun pula...if got no ammo, no need to shoot lah, sit quietly, read and get some ‘ilmu’, hopefully 'lekat'.

Assalamualaikum Tun dan Tun Siti.Semuga di bulan puasa ini Tun berdua dapat menunaikan ibadah puasa dengan tenang dan gembira selalu dan sentiasa diberkati dengan tahap kesihatan yang memuaskan.Selamat berpuasa dari kami sekeluarga.

By Maryjane  on August 28, 2009 10:31 AM

Dear Tun and everybody who is interested in Constitutional law and our Constitution,


Please join the Bar Council's Constitutional Law Committee to learn more about our Constitution.

Set up and chaired by Lawyers experienced in this field and are also as eager and excited to learn about the Constitution.

This is a formal invitation to anyone and everyone - from students to ex Prime Ministers - Let us learn together! http://www.malaysianbar.org.my/constitutional_law_committee/

If you are really interested please call Bar Council for further details.

Thanks!

By khairi ali  on August 28, 2009 10:13 AM

chanorian, I do agree with u. Tun is testing the 'lawyers water'. They are so trouble some, without due perspective of Malaysian history and, of course, law.

But I think, Tun would have commented on mysterious letter in the case of Beng Hock, if he is the PM. And, the court asked the police to investigate! In other word, the court is now accepting any rubbish to be construed as an evidence! Mumbo jumbo kind of justice!

I still remember when Tun chided the court in the case of Puteri UMNO who was being harrassed by one PAS member. This is because the court throw away the case, with the reason

that there is no proof. The court wanted the sarong the man's wearing, who was supposed to have been lifted in front of the Puteri. My gosh, what a lame reason, and yet we accepted it, without any news of replenish the law of the country.


By Phrase Rider  on [August 28, 2009 10:06 AM](#)

A'kum Dear Tun M,

In Japan the LDP may no longer be the force to be reckoned with, could BN in Malaysia going down the same path?

Secondly, it seems that your book "Malay Dilemma" is still relevant today as the day you wrote it. Thank you for the reminder?

Rashid

By WanJo  on [August 28, 2009 9:55 AM](#)

Salam Yang Dihormati Tun,

I used to studied law last time but now i decided to run my own art gallery, so my knowledge could be a bit rusty.

I think in a democratic country, we believe that the parliament are represented by people that are chosen by the people, and ultimately the parliament had the ultimate power i.e. the sovereignty. The parliament cannot be bound by the constitution and and even its own previous decision. Although absurd, in a democratic country, an act of parliament is the ultimate law until amended by the next act of parliament. Back to your question, the parliament can change the constitution if the people wants it. Its democracy!

So technically, democracy in not a good type of government because people's thinking and opinion are limited to logical and scientific explanation only. To govern a government and a nation, divine guidance is needed as what demonstrated 1400 years ago thus making it a superpower in less that 50 years. Actually everything had been answered and proven then. Hopefully, the next generation can comprehend and execute better. Your friend, Dr Asri Zainul Abidin could be one of the example.

Salam.

By fib  on [August 28, 2009 8:59 AM](#)

1.konstitusi dan hukum konstitusi??????????


2.diluluskan sebelum atau sesudah??????????

3.semua orang dah tahu ianya di ceduk.

4.menjadi undang-undang disebabkan kita gagal menggunakan pakar yang ada.pakar islam ditolak ataupun tidak diiktiraf.asas sekular dinaikkan.


5.minyak mana boleh bercampur dengan air.kecuali yang asli iaitu air kelapa

6.gratis-terpulang

By Kelebai  on [August 28, 2009 8:20 AM](#)

Shahrul..

It has to be the chicken first.. coz the egg wont hatch as a chicken if it is not incubated by its mother.. Who is the stupid person who first come out with this riddle.. Its like asking the baby first or full grown man.. everybody knows adam the first man is a full grown man.. except the man ascending from ape.. Maybe its egg come first.. Only Darwin knew that..

By hesmel  on August 28, 2009 7:48 AM

Salam..


Dear Tun,

Salam Ramadhan..

I beg to differ. You should have done it when you were still the Prime Minister.

Thank you.

HESMEL FAZNEE FAISAL

By zul81  on August 28, 2009 7:31 AM

Salam , Tun


I am not a lawyer. As far as i know, our constitution has made from agreement among Malay Rulers,people(which represent by Perikatan)and British. The Reid Commission only make the draft and recommendation. At last it endorsed by the agreement from group which i mentioned earlier.

Law is made from who have authority during that time. They agreement base on give and take priciples like British agree to give independent with one of the condition that we must take and use Westminster system and accept parliamen democracy system like in Britain.

When it become agreement so all requirement in the draft or amendment after it passing Ruler, Perikatan and British so that all requirement such as existing the Parliment must be fulfill.

My conclusion that, Our constitution create the paliment. Not otherwise and it more senior that our parliment.

Please corret me if i give wrong interpretation.

By iqbalriad  on August 28, 2009 6:26 AM


Aslmkm Tun dan sekeluarga...selamat menjalani ibadah puasa....satu lontaran idea yg baik....lagi banyak Tun kupas lagi banyak pengetahuan yang orang kebanyakan macam saya akan faham dan ambil tahu.....semoga Tun akan terus menyumbang kepada masyarakat yang kritis dan berpengetahuan tinggi.....wslm

By daus  on August 28, 2009 4:09 AM

hard question to be answered.but then i noticed that parliament created to control ministers' movement so that they don't have enough space to do something illegally.but authority is everything!!for constitution,it created for the sake of citizen..

By Old Fart  on August 28, 2009 3:06 AM


And without knowing that or bothering to know that you ruled the nation for 22 years!!!

By joneadam  on [August 28, 2009 2:53 AM](#)

Dear Tun,

First of all, I like to wish you and family, a Selamat Berpuasa this Ramadhan. Looking forward to your Hari Raya Open House (if you have one this year as I never miss previously).

This has been quite a while I did not visit your blog. I like to comment on the recent defeat, yet again by BN and UMNO in particular. There seem to be a trend and can be infectious (Doctors know best!). This calls for a surgery to fix it....in fact, this must be done almost immediately. When one read the news, it is always " we know it ". Do they know it? The answers are not convincing. Shahrizat in particular should stop saying "negatives" on prime time news just before the voting day (this did not help and do put people off). Be humble please! I hope she reads this. Many people actually do not believe in words anymore....RESULTS count. UMNO is losing support. UMNO stands for United Malay National Organization, but we are not united. PAS is gaining support at the expense of UMNO as long as UMNO does not change (mindset is hard to change I agree). The Malays are divided...thanks to the previous administration. The Malays and BN support was at all time high when the baton was hand over. Look at the results and support by the BN parties..very disappointing.

By hadzir  on [August 28, 2009 12:55 AM](#)

Dear Tun,

Sound bites for the lawyers? I am just a plain reader of which I believe all Malaysian should be. Just look at Tun Suffian's ' An Introduction to the Constitution of Malaysia from page 3 in Introduction to see that Malaysian Constitution have 206 pages compared to American Constitution of 20 pages... A constitution often born from an agreement between or from a power of authority to another , cessation of territory, society, tribe races and cultures, (religion? May be no: but my great admiration is The Prophet Muhammad' (pbuh) agreement of Medina). Federation of Malaya Agreement 1948 , a constitution, but not first born,(earlier treaties hatched them), hence the Federation of Malaya 1957, Malaysia 16 september 1963. The written articles embodies into a printed constitution.

The ruler in council (Majlis Raja-Raja) must be considered as the pillar and proxy to the agreement thus not removable. Mainly so, because the term agree, agree, agree "constitute the body" and to be borne by the generation and as Allah decreed , Obey Me, follow My servant the Prophet Muhammad(pbuh) and the fair rulers amongst you.

p.s I am wondering why you are asking lawyers, something admist?

Laymen: Yes rightly so Tun -the constitution? what I know is its just there when I was born. emm, a bit lazy to read... Did the American have to read them in school at all times? patriotic? hmm.. another word to ponder..

By chanorian  on [August 28, 2009 12:44 AM](#)

Dear Tun,

I believe Tun is more emphasizing on something that Tun already have the answer but Tun just want everyone to know the root of the country, how it is rules or in short what is meant by Constitution. Perhaps Tun's question is directing to certain parties for them to realise.

Anyway, im answering Tun's question literally. As follows

- Parliament did not create the Constitution. Parliament is a place where law is made BUT it must be made in accordance and not against the constitution.

- Where constitution come from? we adopted UK's constitution or rather cutting and paste to fulfill the requirement of establishing or seeking independence in 1957. In short, just like if we want to do business in Malaysia, we must first set up a company right? if we want to be independent, we must have a set of golden rule of which is call constitution to be the golden law or guidelines before we ourself made any subsequent law by our self after independent in 1957.

- But obviously we have another body call judiciary to interpret the law including constitution. in short again, the judiciary must interpret what's the meaning in every section in our constitution before they can interpret the subsequent law created by our parliament.

Thus, it is very important to have a constitution as a golden law in Malaysia. if not the parliament can make any law eventhrough it is inhuman and etc.

just like in every religion there is a set of golden rule to follow ie muslim go al quran, buddhist of its buddha's teaching.

Tun, is my explanation reasonable? irrespective it is correct or incorrect.

By [azienmat](#) on August 28, 2009 12:25 AM

Lawyer di Malaysia ni sudah banyak sangat Lawyer Buruk.

By [rarunasalam](#) on August 27, 2009 11:54 PM

I am looking out for this book - An Introduction to the Constitution of Malaysia.

Do you know where I can find it Tun? I might be able to do some research for you on this topic if I have this book.

I too am interested in the question you have raised - I would like to know the validity of this constitution and the law it governs, if it was the basis of our Malaysian law, especially if it was drafted before independence.

I guess that is the basis for your question in the first place? If not, what raised your curiosity into this topic Tun?

Pls share

(Ravi)

By [pakbelalang](#) on August 27, 2009 11:29 PM

Dear Tun M,

Setelah membaca kenyataan akhbar dari pihak MCA saya rasa keputusan yang di buat oleh parti itu memecat Dr Chua adalah tepat sekali.

Di bawah adalah kenyataan akhbar dari akhbar NST:

"What the respondent had done in failing to uphold the image and reputation of the party has not only "haunted" and hurt the party and the government, but is going to continue to "haunt" and

hurt the government in the future, especially in every forthcoming by-election and general election, unless some drastic action is taken by the party," the report explained.

The board also noted the parallel of former Parliamentary speaker Datuk D. P. Vijandran who had to succumb to public opinion and leave the political arena after he was linked to videotaped sexual activities.

"In short, it is safe to conclude that, for the general Malaysian public, a public figure in Malaysia is expected to behave like a public figure," the report said.

"He cannot be a public figure and enjoy the luxuries of a private person at the same time, and when he is caught, he will not be allowed to defend and excuse himself by saying that it is my private life," it added.

The report also highlighted that Dr Chua had himself stated, after the video surfaced, that he decided to resign from all posts because of moral problems and did not want to burden the party and the government.

One of the disciplinary board members, who declined to be named, reiterated the main reason for the expulsion was that Dr Chua would be a liability to the MCA."

SATU KEPUTUSAN YANG BIJAK SEPERTI MANA TUN M MEMBUAT KEPUTUSAN TERHADAP ANWAR. JALAN CERITANYA ADALAH SEAKAN-AKAN SERUPA, CUMA AKTORNYA BERLAINAN!! KITA TIDAK BOLEH KOMPOROMI TENTANG MORAL PEMIMPIN. TIDAK MENGAPA KALAU PUN RISIKO POLITIK SANGAT TINGGI KERANA POPULARNYA KEPIMPINAN MEREKA. TIDAK ADA MAKNA KITA DAPAT PEMIMPIN YANG RENDAH MORALNYA.

By Nothing but wind  on August 27, 2009 11:21 PM

Dear Tun Dr M,

I would like to comment on the punishment meted for various offences (nothing in particular). I see there are punishments which seem unfair if compared with another crime.

For instance, I feel commercial crime deserves heavier punishment than what is imposed currently. There are a lot so called "businessmen" out there just to squeeze your savings if not alert.

I also feel it is quite unfair with punishments where the range is wide. For example, let us say, an offence is punishable between 1 to 5 years. The liberty is in the hands of the judge as to how many years the convict should spend in the prison, as low as 1 year or as long as 5 years. This might give room to the judge to decide according to his/her emotions and wish.

The fact that the law is reviewed significantly year after year indicates that the law is not perfect. Thus, the public and the authorities should welcome constructive changes to the existing law.

By Ceylonese Lawyer  on August 27, 2009 11:18 PM

The answer varies subject to the two material periods of our nationhood.

At the point of Merdeka in 1957, the Constitution came into force on 27.8.1957. Formal independence only followed on 31.8.1957. This was facilitated by the Federation of Malaya Act 1957 which was passed by the UK Parliament and back to back with that there was the Federation of Malaya Agreement entered into with the government of the Federation on 5.8.1957. The Federation of Malaya Government had already existed at the time having been created by the Federation of Malaya Agreement of 1948. The Malayan constitution was then adopted by each state which in turn had a state constitution.

In 1963 when Malaysia was formed, it was a Union formed between the states of Malaya and Singapore together with the colonies of Sabah and Sarawak. The initiative was thus a joint initiative between the governments of Malaya, Singapore and the British Empire. The Constitution was based on the Malayan constitution and created the state of "Malaysia". Therefore the present Federal Constitution was established by the Parliament of "Malaya" in consultation with the other merger partners.

As to how the Constitution acquires its legal effect the answer is the following:

1. It rooted in the 1957 Act passed by the UK Parliament which sanctioned the British Government to accord independence and to hand over their rule to a government known as the Federation of Malaya government. The 1957 Act set out the framework for the agreement which the British Government was allowed to enter with the Malay Rulers.

2. One of the conditions which is found in the 1957 Act was:

"Any such agreement shall be conditional upon the approval of the new Federal Constitution by enactments of the existing Federal Legislature and of each of the Malay States; and upon such approval being given Her Majesty by Order in Council may direct that the said Federal and State Constitutions shall have the force of law within the said Settlements, and, so far as She has jurisdiction in that behalf, elsewhere within the Federation, and may make such other provision as appears to Her to be necessary for giving effect to the agreement"

3. The Federation of Malaya Government, then agreed to accept the independence so granted subject to the terms of the 1957 Agreement, which required such an adoption of the Constitution;

4. Therefore the Constitution became law when the existing Federal and state legislatures adopted the same in compliance with the 1957 Agreement;

5. Thereafter the independent Parliament of Malaya established the constitution of Malaysia.

I hope this answers Tun's question. I am pleased to provide the response gratis, although I am quite certain that Tun will set aside a suitable part of his pension for a worthy cause by way of reciprocity.

By kamal ahmad  on August 27, 2009 10:53 PM

Salam kasih dan salam hormat Ayahanda Tun.

You know lawyers Tun, a mix bunch of loose free peanuts at best. Baby late for delivery by 7 days – what they consider doing? Send in a court order! How to see beyond this in a safe manner

beats walking on slippery ice Tun and honestly I thought that “gratis” these days is only good for free MP3 downloads on the internet.

I am a Pasar Malam trader Tun. Before I came to understand the meaning of intellectual property (plagiarism or otherwise), I used to help starving law students photocopy their course materials. You know those big English law books Tun, never cheap!

Tun, your question is many problems bundled for one common answer. That’s impossible if not very hard to do - this is not Singapore and you are not Lee Kuan Yew Tun, I mean just leave it to the Lee’s, don’t even think about imitating the old goat in his “seluak katoq”. Don’t be so like that, we know its you behind the screen Tun, in your kain pelikat.

Lee Kuan Yew is finesse skill work. Kind of like frying a bacon to perfect crisp. One of a kind artifact.

Tun, if a Pasar Malam trader may say his line; I think a nation would ultimately constitute itself into law; law and then order, thus nation first before parliament and law. It could not be order and then law – who gave the law (commandment) for order in the first place? This is not Moses (a.s) time anymore Tun.

Do you know that we still have many outdated laws in Malaysia, remnants of the Brits? For example, legally one cannot walk while holding a chicken (fighting cock) head down. It is a crime (bet Hishamuddin don’t even know that one). Those are laws left over by the colonialist, and I guess, we just carry over many things from them Tun.

Look at Singapore, when we kicked out Lee Kuan Yew, what did he went and do first? He went and declared independence and formed his constitution. So as kiasu as he would like to be, the old goat just had to make do with nation (parliament) first and then law. Ever since that day, they have passed many other laws into effect. Such laws as the recently passed Riot Act which literally made every pregnant woman in Singapore as practically “holding a riot”. By legal definition, they must apply for a permit to get pregnant in Singapore now. A condom is not good enough anymore for the Lee’s.

Malaysia do not recognize US trained lawyers, only Commonwealth lawyers get the mark. For the US its constitution and simultaneously nation. For the Brits I guess its Monarchy above everything – for them even Jesus takes back seats sometimes.

See, if the founding fathers of America could not come to order and sit down to discuss independence on the 4th of July, there would be no law (look at the Red Indians – never could sit down without killing each other for a Constitution – see what they missed?). But the New Englanders, they came to realize on the 3rd of July by a common order of sober rational mind-frames, that they would appear next day in a civil conduct to work things out and proclaim independence of and for America.

For Malaysia, we have that simultaneously just as well. This is no chicken or egg first issue Tun. That would be for eternity and still not settled credibly.

It’s was an act that delivers simultaneous result. Kind of like “The Big-Bang” theory Tun.

The 7 Wasiat Raja-Raja Melayu is that very basis for answers to all of your questions Tun. It begins here and it shall return here.

So it goes back to one, to the nature of order that took place on the 31st of August 1957. Our Raja-Raja Melayu, they had collectively agreed by a common order (wish) to a review, and that one-force was the Raja-Raja Melayu bagi Negeri-Negeri Tanah Melayu.

On the 31st of August 1957 that reviews became Constitution for an Independent Negeri-Negeri Persekutuan Tanah Melayu.

After that one force of 7 Wasiat Raja-Raja Melayu, came Constitution and then Parliament (remember election for MP was held first on the Charter of Pekenan Raja-Raja Melayu before Merdeka for the Pindaan Akta Suruhanjaya Pilihan Raya 1954 – I think it was 1954), and then only the gazettements of various laws. Even the Suruhan Jaya Reid was at the Pekenan Raja-Raja Melayu.

Law is amendable. Constitution?

Our 183 points Constitution today was derived from “Perjanjian Persekutuan Tanah Melayu 1948” and “Perlembagaan Kemerdekaan 1957”. Rukunegara was 1970, but those two, were earliest and at that particular time, Malaysia didn’t even exist yet. But our Raja-Raja Melayu was there, and they wrote things down.

As such, in the event that a failure of democracy has occurred, in a logical reversal of hierarchy as has been in practiced for the past 52 years, the buck would stop at the Raja-Raja Melayu table once again, and they would have to decide what to do with us and our wayward ways of democracy that they have agreed to grant us back then. A contract is a contract, no more - no less.

-Common Order of the 7 Wasiat Raja-Raja Melayu.

-Constitution vis-à-vis the formation of Persekutuan Negeri-Negeri Tanah Melayu and simultaneously the Perlembagaan Kemerdekaan tahun 1957, as the basis of/for all law.

-Then Parliament to create more/refine existing - of all laws

-More law gets passed

-Then it had all fallen into a reliable working system we sometimes call democracy.

-Which these days are all set for complacency and ignorance and maximum abuse by a society 52 years young.

Tun, everybody is born a lawyer. You just decide later on whether to go to law school and polish it and make a frantic living out of it, or to just keep it for own basic survival. Case in point, look at the harmless rat – pushed to a corner, it would fight nails and teeth! Everybody would have their own opinion of it. Until of course, the best answer gets gazetted into law by Parliament. Then it becomes law as defined by Parliament to a nation.

It begins with our Raja-Raja Melayu and it shall return to our Raja-Raja Melayu.

I am sure others would be able to offer you a better technical view for your questions Tun. They have law books; I haven’t photocopied any in years now already. But I wrote you a bonus headache, an insight into the future applications of it. Now what do you think of that?

Made sense Tun? Very good and excellent Sir, that makes for two of us.

By [azfarhan](#) on [August 27, 2009 10:50 PM](#)

surely Karpal Singh knows the answer...but im afraid he will not give a straight answer on the question...why?because he is the one who so vocal over social contract...in favour for his Malaysian Malaysia aspiration...I will ask this question to my lecturer...hope she will enlighten you and me too Tun...

By kerajaan langit on [August 27, 2009 10:26 PM](#)

Salam Tun,

Harapnya Bar Council boleh cepat jelaskan keperincian sebenar ?

Apa pun jawapan mereka di harap, Law itu nanti tidaklah semestinya dijadikan ukuran keadilan.

Cheers,

By akee on [August 27, 2009 10:24 PM](#)

BN is the Law here in Malaysia.

By ibnuabdulaziz on [August 27, 2009 10:23 PM](#)

Salam Ramadhan Yg Bbhg Tun.

First and foremost, I am not a lawyer. I am just a layman with keen enough interest over your question.

From what little I know and remember from reading history textbooks in school long ago, the constitution was founded by the Reid Commission in view of the birth of a new independent, sovereign nation, i.e. the Persekutuan Tanah Melayu.

Since this took place prior to the independence, isn't it logical to presume that it was the Constitution that created the Parliament (though I frankly wonder if there is a related provision to that effect)?

Anyway, though I may oversimplify things here, I think the more important fact is that the Parliament has the power to amend the Constitution.

And this is where the Malay-Muslim MPs have so far been failing to do; to collectively ammend the Constitution in favour of Islam. Had this been done, the so-called 'Official Religion' may not be relegated to its present legal status in this country; a mere symbol.

Regards...

By Capt.Jag2020 on [August 27, 2009 10:08 PM](#)

Assalamualaikum Dear Tun,

Thank You Very Much Sir for your immediate response.....Let us wait and see who are among the

Lawyers that shall be with us on this.....! May Allah be with us and May He continue to guide and

lead us on the right path. And Last but not Least, May He grant us with the Great Victory (Al-Fath).

Thank You, Wassalam

By [jizurimin](#) on August 27, 2009 9:51 PM

No comment as law not my expertise. But I am still a law abiding citizen. Maybe can hear from 4 sides this time. Suggestion - government by Dato Rais Yatim, opposition by Karpal Singh, Malaysian Bar council by the president and a representative of British bar council - Jizurimin

By [L_J](#) on August 27, 2009 9:09 PM

Dear Tun,

The immediate source from which the Malaysian Federal Constitution sprang was an Act of the Malayan Federal Parliament: viz the Federal Constitution Ordinance 1957. The Malayan Federal Parliament itself was created by the Westminster Federation of Malaya Independence Act 1957 (& the orders-in-council made thereunder).

So the Malayan Federal Parliament was created by an Act of imperial legislation, which in turn created the Federal Constitution.

This is what I gather from the recesses of my memory, but any first year law student in Malaysia (well perhaps better just stick to UM, the other Malayized university law schools are rubbish) should give you a more elaborate answer but I think I have given the gist.

LJ

By [CMMAK](#) on August 27, 2009 8:32 PM

Tun,

My take, the Reid Commission drafted our constitution before our independence. Approved by all parties (ie Rulers & QEII) then British Parliament granted us the independence (The Federation of Malaya Independence Act 1957) with the adoption of the Reid Commission's constitution for a self governing Federation.

Then we have the rest of the machineries to formulate the Parliament in Malaya and it ratifies the Constitution eventually.

I stand corrected and looking forward to further input from the rest.

I am NOT a lawyer but this is my 2 cents worth.


Selamat Berpuasa & Thank you

By [mohan](#) on August 27, 2009 7:52 PM

Easy, lets circulate to the commonwealth as we were not practising lawyers then. Let the Queen tell us.

By [pakbelalang](#) on August 27, 2009 7:14 PM

It is good sometimes to test how good our local lawyers are. Lets see how they argue this case.

By pppz  on [August 27, 2009 7:03 PM](#)


Salam YAB Tun,

Berapa ramai agaknya pengamal undang-undang yang tahu tentang perkara yang Tun bincangkan disini.

Kebanyakan peguam jarang mengaku tidak tahu atau kurang arif tetapi pasti cuba berlagak serba tahu kerana mereka mempunyai sangkaan bahawa hanya manusia biasa sahaja yang ada kekurangan.

Bagi mereka kalau tidak dapat beri respon bermakna tidak mendatangkan keuntungan. Kalau tak tahu pun biar goreng sampai hangus dan harap orang lain terpegun dan terpinga.

Wassalam.


By shahrul  on [August 27, 2009 6:36 PM](#)

har..har...har...is it the egg or the chicken first?

By Onlooker  on [August 27, 2009 6:04 PM](#)

Tun,

I remember reading something written by the late retired Chief Justice of the Supreme Court of Malaysia (now called Federal Court), Tun Suffian. Perhaps he wrote a book about the history of constitutional development in Malaysia.

By leading  on [August 27, 2009 5:10 PM](#)

Tun,

Sad to know that there are still so much ambiguities.

Merdeka !

Regards,

www.leading.com.my

By pro umno  on [August 27, 2009 5:04 PM](#)

SALAM BAHAGIA TUN,

LET ME TELL YOU ONE THING, NO MATER HOW THE PAKATAN RAKYAT MP OR ADUN DONE A SMALL OR BIG MISTAKE, NO MATER FEW OF THEM INVOLVE IN CORUPTION OR MISUSED OF POWER, I TELL YOU THE TRUTH, RAKYAT WILL STILL VOTE FOR PAKATAN RAKYAT IN THE NEXT GENERAL ELECTION. THE RAKYAT ALREADY NO CONFIDENT WITH THE BN GOVERMENT ANYMORE EVEN IF NAJIB CAN IMPROVED THE ECONOMY OR REDUCE THE CRIME RATE TO ZERO THE RAKYAT STILL WILL VOTE FOR PAKATAN RAKYAT. THE RAKYAT WANT A CHANGE.

By Grimwick Leo  on [August 27, 2009 4:43 PM](#)

Tun,

The secondary and college textbooks say the constitution gives power to the parliament
Even in the constitution itself

There are rumours that the formation of constitution is done with conflicts, especially the
sensitive issues

I would like to know about that too

If possibly the original constitution itself

I don't find any websites to download

By [sdahenan](#) on August 27, 2009 4:37 PM

ASSALAMUALAIKUM WARAHMATULLAH HI TAALA WABAROKATUH

Yang di hornati lagi di sayangi Ayahanda Tun dan Bonda Siti Hasmah.

Anakanda tidak mahu menjawab persoalan di atas tetapi sekadar mahu mengucapkan selamat
berpuasa kepada Ayahanda dan Bonda berdua dan Selamat Hari Raya dan semoga Ayahanda dan
Bonda selalu berada di dalam limpahan Rahmat Allah SWT

Alif Lam Mim.

Source : <http://chedet.co.cc/chedetblog/2009/08/sound-bite-for-the-lawyers.html>