

**A timely manifesto for popular constitutionalism**  
**MalaysiaKini.com**  
**July 3, 2012**  
**By Clive Kessler**

As Malaysia faces basic questions about its identity and future, this is a book for the times, for this crucial moment in its national evolution.

It is a book for now, and also for the nation's future, provided that its politicians and other leaders of influence are wise enough to make a worthwhile future possible, rather than to blight its best prospects with their folly.

NONEZaid has written a timely manifesto for popular constitutionalism, for a national life grounded in legal propriety and rectitude.

He challenges those who find ways to evade the nation's foundational fact that the federal constitution, and nothing else, is the supreme law of the land.

He refutes claims that something other than that is "the law of the land" or that seek to read other meanings and purposes into what is the sole basis for national identity, integration and citizenship.

He rejects the covert or indirect creation of new laws by the undemocratic process of issuing legally enforceable fatwa or religious edicts, especially those that run counter to, or offend, key constitutional principles and guarantees.

He expresses his deep reservations about those judges who invoke notions of a primary religious loyalty to override, diminish or skirt around their clear judicial obligations.

He argues that no clear modern Malaysian national identity can be established so long as Malays, as the majority population and core of the nation, remain confused or uncertain about their own identity, about who they are.

He sees that identity confusion as the source of the new, and ever more rampant and ambitious, Islamic censoriousness and pious authoritarianism that now characterise national life. That identity confusion or vacuum, he argues, has opened the way to power to God's self-appointed "bodyguards" with their own extra-constitutional, and often self-interested, agendas.

That confusion, or lack of a clear and appropriate historical sense of self, is also the main obstacle to Malay intellectual openness and cultural vitality and hence to the achievement of Malaysian modernity generally: to Malaysia's ability to assume its rightful place among the world's successful and progressive nations.

Healthy sense of enjoyable fun

Zaid looks back poignantly to the era of the P Ramlee films, when Malays still had, and revelled in, a great sense of fun - of worldly enjoyment of the relaxed everyday pleasures of being Malay - and an amused, unfearful and constructive readiness to be part of the culturally diverse cosmopolitan world in which they inescapably, and often much to their own benefit, still find themselves.

Instead of that ease and a healthy sense of enjoyable fun, the boundaries between Malays

and others are now marked, even morally patrolled, by a spirit of fearfulness: the social fear of difference and unfamiliarity, unrealistic political fears of loss and historic dispossession, religious fears of contamination and pollution.

NONEAs a democratic constitutionalist, Zaid (right) upholds the principles of constitutional monarchy. This is the idea that, like the position of the Agong itself, the traditional rulers are now the embodiments and personifications of the constitution, of constitutional principles and constitutionalism.

There may be more than this to the cultural history of Malay rulership; but all that is here "more" is external to, and cannot override, the central constitutional realities and foundations of modern nationhood.

This constitutional fact, he argues, is fundamentally incompatible with any notion, at times advanced by ingeniously resourceful lawyers in key constitutional cases, that the constitution itself assures the rulers of constitutional powers beyond those that are created and bestowed by the constitution.

He offers that view not as an assault upon Malay history and tradition but as a challenge to all Malays, royalty and rakyat alike, to be people of their own time, empowered by the ideas of this age to move confidently into the next, the future.

In arguing for these ideas, Zaid is not promoting any shocking new radicalism.

He does so as a defender of the "old decencies" that once identified, and were synonymous with, the Malaysia of earlier times: the reasonable decencies of mutual recognition and accommodation - and of the negotiation of cultural differences, rather than their attempted yet unsustainable management by the unilateral diktat of the dominant.

It is those decencies now upheld by Zaid that once made people of all backgrounds confident that "the Malaysian project" was a viable, not a delusional, aspiration.

That is Zaid's Malaysia. He is far from alone, I believe, in glimpsing and by no means an isolated voice calling for that "way forward".

A Malaysia with a prudent regard for its own future might reasonably ask, "Is there any other?"