

# Legacy of our forefathers

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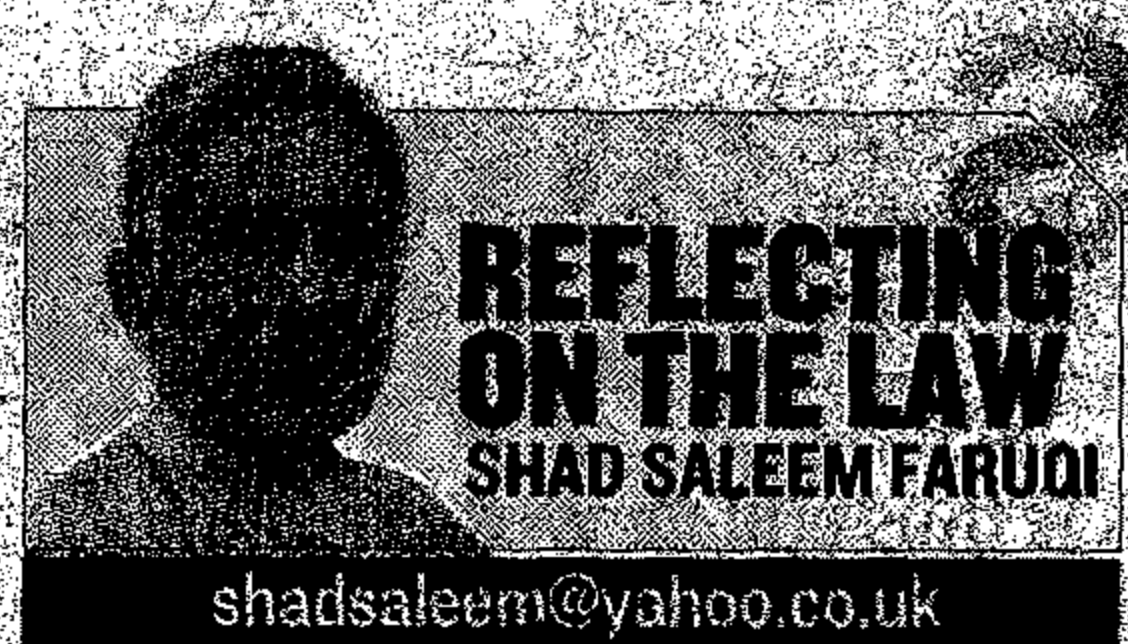
In framing the Constitution, the leaders of the Alliance had to grapple not only with inter-ethnic rivalries but also with the demands of the radicals within their own communities.

**C**ONSTITUTIONS are born to mark stages in progression towards self-government; to establish the foundations of a newly independent state or to start afresh after a revolutionary or ideological upheaval.

In British Malaya, Datuk Onn Jaffar's opposition to the Malayan Union proposal of 1946 galvanised Malay nationalism. The multi-racial alliance that was forged to struggle for independence earned a massive victory at the 1955 Election to the Federal Legislative Council. It demanded early removal of the yoke of colonialism. In January 1956, a conference was held in London to agree to the principles on which independence was to be granted and to appoint a Constitutional Commission to draft independent Malaya's first Constitution.

**Reid Commission:** The Commission was headed by Lord Reid, a British judge; Sir Ivor Jennings, a British expert on Commonwealth constitutional law; Sir William McKell of Australia; B. Malik from India; and Justice Abdul Hamid of Pakistan.

The Umno-MCA-MIC Alliance drew up a 20-page memorandum for the Reid Commission. Half of the memorandum dealt with communal issues and with the need to cater to Malaya's dazzling diversity. On most issues, the Reid Commission showed deference to the "social contract" negotiated by the communities.



The Commission held 118 public and private hearings between June and October 1956. It made its recommendations on Feb 20, 1957, and submitted a draft Constitution which provided for the following:

A supreme Constitution; an independent judiciary with powers of judicial review; a federal system of government with a heavy central bias; a Westminster-style of parliamentary democracy; and a constitutional monarchy at both state and federal levels. There were partially entrenched fundamental rights; extensive power to Parliament to suspend basic rights during times of subversion and emergency; special protection for the rights of Malay Rulers; protection for Malay privileges; liberal rights of citizenship for all persons born in the Federation; and linguistic, cultural and religious rights for non-Malays.

**Opposition:** Some of the Commission's proposals caused consternation within various sections of the political community. Among them were:

● REID proposals on citizenship were criticised by Malays as so liberal

that the country would be swamped by non-Malays. Umno objected to the provision permitting dual nationality.

● UMNO rejected the proposal that Malay privileges would be a temporary measure for 15 years;

● UMNO was troubled that no official religion was prescribed at the federal level;

● THE Malay Sultans were displeased that the role of the Conference of Rulers was merely symbolic;

● UMNO objected to restrictions on creation of new Malay reserves. It sought to extend the reservation law to Penang and Malacca; and

● THE provision permitting multilingualism in the legislatures was regarded as too liberal.

**Tripartite Working Party:** As a result of the uproar caused by the Reid report, a tripartite Working Party was appointed to examine the Reid Commission Report. The Working Committee comprised four representatives each from the Rulers, the Alliance and the colonial government.

With the clock ticking against it because the date for Merdeka had already been set, the Working Party held 23 meetings between February and April and made significant amendments to the Reid proposals.

● THE 15-year time limit on Malay privileges was removed. Malay privileges were made an integral and entrenched part of the Constitution.

● ISLAM was adopted as the reli-

gion of the Federation but with full freedom to other communities to practise their own faiths in peace and harmony. Documents indicate that there was clear agreement among the Working Party members that despite the adoption of Islam as the religion of the federation, the country was not to be a theocracy.

● THE role and functions of the Conference of Rulers were enhanced.

● THE permission to use Tamil and Chinese in the legislatures was replaced with the provision that these languages could be used for non-official purposes and their teaching and learning would be allowed.

**London Conference:** At the end of the Working Party negotiations, some issues remained unresolved. Among them were Umno's desire to extend Malay reservation law to Penang and Malacca, the problem of dual citizenship and the manner of appointing the first governors of Malacca and Penang.

**Malay features:** All in all, changes made by the Working Party augmented the indigenous "Malay-Muslim features" of the Constitution. But there still was in the basic charter enough for everyone to relish and cherish. Malay privileges were balanced by safeguards for other communities. The spirit that animated the Constitution was one of tolerance, compassion and compromise.

Fifty years down the road as one looks at the legal, political and social landscape, it is possible to say that, by far and large, the Constitution has worked well.

It has provided the foundation for Malaysia's rock-solid political stability, its spectacular economic prosperity and its exemplary record of racial, religious and regional harmony.

Most Malaysians take these blessings for granted. But it must be remembered that the country's communal harmony is founded on the courage and conviction, sacrifices and compromises of the leaders of the Alliance who had to grapple not only with the inter-ethnic rivalries but also with the demands of the radicals within their own communities.

For 50 years, Malaysia has provided the world with an example of how a fragmented, multi-ethnic and multi-religious polity can be welded together in a common nationality.

But dark clouds loom over the horizon. There are those - including politicians, lawyers and even judges - who refuse to honour the Constitution because it does not fit in with their vision of the ideal, theocratic state. They need to be reminded that though imperfect, this Constitution has served us well. Our chieftains, too, should send the same message.

Dr Shad Saleem Faruqi is Professor of Law at UiTM's Faculty of Law.