

Preserve essential foundations

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As our beloved Malaysia just celebrated its 61st independence on Aug 31, let us remember the journey we have travelled so far.

Before the British left this country 61 years ago, the journey towards independence had gone through different patches and challenges. The Malays, who were deeply loyal to the sultans, rose against the British. Datuk Maharaja Lela, Datuk Bahaman, Dol Said and Mat Kilau were among the Malay warriors who were willing to bear arms against the British.

Many of these acts of resistance ended in bloodshed. For instance, Maharaja Lela was hanged to death for killing J.W.W. Birch, a British Resident in Perak, in protest over the intervention by the British in the affairs of the state.

In an armed offensive launched by the British, together with the then Pahang authorities against Bahaman and his followers, renewed hatred against the British hindered their hostile operation and eventually caused it to fail.

Fast forward to about a decade before independence, the Malays rose against the British intervention which sought to reduce the power of the sultans by introducing the Malayan Union on April 1, 1946. Consequently, the brazen British intervention in the local political framework raised the spirit of Malay unity against the British. The Malays succeeded in convincing the Malay rulers to boycott the proclamation of Malayan Union. Eventually, the British's plan failed, and it was replaced by the Federation of Malaya in 1948.

The struggle against the British did not end there. Looking at the success of Indonesians, who managed to "expel" the Dutch from their homeland, the Malays were inspired to end the British influence for good and free Malaya.

The quest for independence culminated when the Alliance Party (later Barisan Nasional) which consisted of Umno, MCA, and MIC— with full support from the nation — managed to negotiate with the British in London to pave the way for independence. The negotiations ended in favour of the Malays, which saw Malaya gain her independence on Aug 31, 1957.

A commission — the Reid Commission — was set up by the British to draft a written constitution for the Merdeka Malaya. The Malay rulers were accorded a major role in assisting the commission to prepare their task.

In total, the commission held 118 meetings and received 131 memoranda from all parties, including from the Malay rulers.

On the surface, the Constitution seemed to be biased with special provisions given to the:

POSITION of Islam in (Article 3);

MALAY privileges, (and later in 1963, the natives of Sabah and Sarawak) in Article 153; and,

POSITION of the Malay rulers in Article 38.

However, many have forgotten that the Constitution we inherited today is a product achieved by stakeholders and parties from different ethnicities and religious groups, and is famous for its balanced provisions.

This agreement to give and take for the sake of unity and achieving a common goal is commonly known as the “social contract” — a contract that the three major political parties of the Alliance, representing the three major ethnicities, understood and ultimately acknowledged throughout their coalition.

In return for the special Malay provisions, non-Malay minorities were given citizenship, freedom of religion, cultural rights, educational and economic rights.

Throughout the decades, the three major ethnic groups have worked side by side in political coalitions and in government. In fact, this inter-ethnic cooperation can also be observed in the new Pakatan Harapan government.

Despite the diversity of culture, language, the way of life, political ideologies, economic status, and even marriage laws, Malaysians have proven that they can live peacefully and harmoniously, side by side.

Indeed, the pluralistic society of Malaysia is a huge asset to the country, and what makes it a beautiful and unique nation. Instead of a melting pot, Malaysia is a rich cultural mosaic. The various races, religions, cultures, and regions are like a rainbow which consists of different colours, but stay together under the same arc.

However, some parties, often among the younger generation, due to a lack of understanding of the history behind the Constitution, have arbitrarily denied the existence of the “social contract”. One of their arguments is that it does not exist in the Constitution.

As a retort, the Constitution also does not contain terms such as “democracy”, “the rules of laws”, “separation of powers” and “independence of the judiciary”.

Even if the Constitution does not expressly contain a certain term or concept, it does not necessarily render them false or unacceptable. It turns out that the Constitution has many implied provisions, including, non-textualised ideas.

The denial of the existence of a social contract, in fact, has denied the historic ethnic cooperation and consultation which were encapsulated in the memorandum by the Alliance, articulated and conveyed to the Reid Commission.

There are also some who argue that the social contract is a legacy that is no longer in line with the demands of the present society. Thus, they demand amendments to the existing Constitution to suit current needs. While it is true that amendments should be made to fulfil contemporary needs, many have been integrated in the numerous amendments made to the Constitution from time to time.

Yet, the essential foundations of the Constitution must be preserved to safeguard the current social balance and avoid any racial conflict. The wisdom behind the social contract and the compromises that have been practised by all parties since independence must also be understood and respected.

A call to amend provisions such as the position of Islam, the privilege of the Malays, the Malay language and the position of the Malay rulers is against the spirit of unity prescribed by the Constitution.

The Constitution is a document that balances between the demands of the various groups of society. Remedies include the practice of “give and take” between ethnic groups, and to be free from extremities in action and ideology.

For that matter, it was the intention of our forefathers and the Reid Commission in drafting the Merdeka Constitution for all Malaysians to enjoy a good and peaceful life.

The document is an embodiment of the unity within diversity among the multicultural society of Malaysia.

The high spirit of tolerance and acceptance propagated in the social contract by both the majorities and minorities are the fruits of a balanced approach framed in the Constitution.

Any readings on the Constitution must be done in a holistic manner. Thus, demanding equality in reference to Article 8 of the Constitution must not ignore other provisions in the Constitution which were included as part of the social contract.

Since the Constitution is the supreme law in Malaysia as per Article 4 (1), this living document is a prime source of unity for Malaysians.

As such, it is our obligation to uphold the constitutional objectives for all Malaysians to live in peace and harmony, despite their different backgrounds, ethnicity and religions.

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