

**Federation of Malaya Constitutional Proposals  
Kuala Lumpur: Government Printer 1957**

**Fundamental Rights**

53. It has been agreed that the Federal Constitution should define and guarantee certain fundamental rights, and it is proposed to accept the principles recommended by the Commission for inclusion in Part II of the Federal Constitution although there have been some changes in drafting. The Article proposed by the Commission on the subject of the enforcement of the rule of law was, however, found unsatisfactory and has been omitted on the ground that it is impracticable to provide within the limits of the Constitution for all possible contingencies. It is considered that sufficient remedies can best be provided by the ordinary law.

54. The Commission's recommendations on the subject of the special position of the Malays were included in two Articles, one dealing with the reservation of quotas in respect of entry into certain categories of appointments in the public services, permits, etc., and the other dealing with reservations of land for Malays. So far as the former is concerned, the Article has been redrafted to provide that the Yang di-Pertuan Agong should have the responsibility of safeguarding the special position of the Malays and the legitimate interests of other communities, and that in discharging this responsibility he should act on the advice of the Cabinet. He will be required to exercise his functions under the Constitution and federal law in such a manner as may be necessary to safeguard the special position of the Malays and to ensure the reservation for Malays of such quotas as he may deem reasonable, and he will be entitled to give general directions to the appropriate authorities for the purpose of ensuring the reservation of these quotas. In the exercise of these functions, the Yang di-Pertuan Agong will be required to safeguard also the legitimate interests of other communities. It is proposed to include corresponding provisions, with the necessary modifications, in the Constitutions of the Malay States.

55. The Commission recommended that their proposals for continuing the present preferences should be reviewed after 15 years. This recommendation was given careful consideration but it was not considered necessary to include such a provision in the Constitution. It was considered preferable that, in the interest of the country as a whole as well as of the Malays themselves, the Yang di-Pertuan Agong should cause a review of the revised proposals to be made from time to time.

57. There has been included in the proposed Federal Constitution a declaration that Islam is the religion of the Federation. This will in no way affect

the present position of the Federation as a secular State, and every person will have the right to profess and practice his own religion and the right to propagate his religion, though this last right is subject to any restrictions imposed by State law relating to the propagation of any religious doctrine or belief among persons professing the Muslim religion.

59. At present there is no head of the Muslim religion in either Malacca or Penang, though in Penang the Government obtains advice in matters relating to the Muslim religion from a non-statutory Muslim Advisory Board. Since the Governors of these new States may not be persons professing the Muslim religion it is proposed that the Yang di-Pertuan Agong should be the head of the religion in each of these States and that the Constitution of each should include provisions enabling the Legislature to regulate Muslim religious affairs and to constitute a Council to advise the Yang di-Pertuan Agong in such affairs. These Councils will be concerned solely with Muslim religious affairs and they will not be entitled to interfere in any way with the affairs of people of other religious groups; and the position of the Yang di-Pertuan Agong as head of the Muslim religion will not carry with it authority to intervene in any matters which are the concern of the State Governments or to require the State Governments to make financial provision exclusively for the benefit of the Muslim community.

61. It is proposed to make three changes in the recommendations of the Commission on the subject of the national language. First, it is proposed to provide that no person shall be prohibited or prevented from using (otherwise than for official purposes) or from teaching or learning any language. Secondly, it is proposed that the Federal and State Governments shall have the right to preserve and sustain the use and study of the language of any community in the Federation. Thirdly, it is proposed not to accept the recommendation of the Commission that for a period of ten years there should be a limited right to speak in a Legislature in a Chinese or Indian language.