

## ***Rukun Negara* as a Preamble to Malaysian Constitution**

**Noor‘Ashikin Hamid\*, Hussain Yusri Zawawi, Mahamad Naser Disa and Ahmad Zafry Mohamad Tahir**

*Department of Law, Faculty of Law and International Relations, Universiti Sultan Zainal Abidin (UniSZA),  
Kampung Gong Badak, 21300 Kuala Nerus, Terengganu, Malaysia*

### **ABSTRACT**

*Rukun Negara* is the Malaysian declaration of national philosophy drafted by the National Consultative Council and launched on 31st August 1970. The *Rukun Negara* aspires to establish a substantial unity of a nation. The principles in the *Rukun Negara* serve as an integrative key to harmonious and unity of the people in ensuring Malaysia’s success and stability. To realize the aspiration above, five (5) principles are presented, namely the “Belief in God”; “Loyalty to the King and Country”; “Supremacy of the Constitution”; “Rules of Law”; and “Courtesy and Morality.” However, there is a postulation that *Rukun Negara*’s inclusion as a preamble may undermine constitutional supremacy. Therefore, this paper is aimed to enlighten the matter via critical interpretation of the principles and examination of related cases in Malaysia. The conducted analyses showed that the Federal Constitution *per se* is sufficient and comprehensive to address the conflicting issues. Despite some ambiguities probed in the Constitution, its supremacy is still fully preserved and effective without including *Rukun Negara* as the preamble.

*Keywords:* Constitution, five principles, preamble, *Rukun Negara*

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*E-mail addresses:*

[shikin@unisza.edu.my](mailto:shikin@unisza.edu.my) (Noor ‘Ashikin Hamid)

[hussainyusri@unisza.edu.my](mailto:hussainyusri@unisza.edu.my) (Hussain Yusri Zawawi)

[naserdisa@unisza.edu.my](mailto:naserdisa@unisza.edu.my) (Mahamad Naser Disa)

[a.zafrytahir@gmail.com](mailto:a.zafrytahir@gmail.com) (Ahmad Zafry Mohamad Tahir)

\*Corresponding author

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### **INTRODUCTION**

The British occupation of Malaya had brought the “divide and rule” policy that separated different races into different forms of social, educational, and economic settings. Malays stayed as farmers; Indians worked in estates while Chinese lived in towns as merchants. There were series of riots in Penang in 1956 and 1957, Pangkor in 1960, in Bukit Mertajam in 1966, leading

to racial conflicts on 13th May 1969. To avert the re-emergence of racial clashes, the government, through the Director of MAGERAN (National Operation Council), set up the National Consultative Council in 1970. The Council members consist of Tun Abdul Razak bin Dato Hussein as a chairman and three ministers, representatives from the state government and political parties; and representatives of different religions, professionals, public organizations; unions, and reporters. One of the Council's functions is to formulate a national ideology that restructures the nation into unity founded on the solidity of races in Malaya that can tolerate one another. The *Rukun Negara* was devised to nurture noble values of religious beliefs, loyalty to the king and country, safeguarding the Constitution, abide by the rule of law, and shaping courtesy among citizens. The citizens who abide by the above values can create national unity regardless of race, belief, and ethnicity. The *Rukun Negara* was launched by YDPA on 31 Aug 1970. The *Rukun Negara* calls upon a united nation where the diversity of religion, race, and culture is celebrated as a blessing and a source of strength. In promoting solidarity and harmony, it also calls for good behavior and warns against abusive or offensive behavior that may lead to the end of social equality, peace, and democracy. It forbids questioning the loyalty of any citizen based on race and belief. It dedicates itself to a just society in which there is an equitable distribution of the nation's wealth among all its citizen.

In commemoration of Malaysia's 60<sup>th</sup> Independence Day on 31<sup>st</sup> August 2017, the so-called G25, a group of moderate Malaysians, had suggested the incorporation of the *Rukun Negara* as a preamble in Malaysian Constitution (hereafter referred to as the Constitution) to promote nationalism and enhance protection to the people core values. G25 agreed with Muzaffar (2016) that by making the *Rukun Negara* the preamble to the Constitution, this philosophy serves as a guide to the courts and other institutions in the decision-making process on race and religious issues to preserve national unity and racial tolerance. Dr Chandra Muzaffar, the chairman of the Yayasan 1Malaysia board of trustees, had earlier proposed the *Rukun Negara* to be incorporated as a preamble to the Constitution.

## MATERIALS AND METHODS

This paper intends to investigate whether the inclusion of five (5) principles of *Rukun Negara* into the Constitution's preamble will strengthen and imposing a more significant effect on the *Rukun Negara* overall. The matter deserves a detailed assessment since if the incorporation is gazetted, the *Rukun Negara* will be part of the nation's law (legally bound) and, inconsequently, may jeopardize the constitutional supremacy. This paper is based primarily on library research through interviews with certain scholars and adopted a systematic qualitative content analysis approach (QCA). Using this approach, the secondary data was extracted

through primary method in which the data generated from existing, naturally-occurring repositories of information such as newspapers, historical and official government documents or reports were collated, analyzed, and interpreted to cater to the problem as mentioned in the above statement.

## DISCUSSIONS AND RESULTS

“A preamble is an introductory and explanatory statement in a document that explains the document’s purpose and underlying philosophy” (Zakariah, 2017). Preambles are defined as “opening statements that express the aims and objects, dreams and demands, values and ideals of a nation” (Faruqi, 2017). Contextually, a preamble is an opening speech or brief introductory statement and guiding principles towards a united nation. In many countries, the preamble has been used “increasingly, to constitutionalize unenumerated rights” (Orgad, 2010). In these countries, the courts rely on preambles as a source of law and aid for constitutional interpretation. However, in India, during *Kesavananda Bharati vs. State of Kerala* (1973), the majority of the judges of the Supreme Court of India agreed that the preamble was a part of the Constitution; however it was not any source of power. On the other hand, it plays a vital role in interpreting the provisions of the Constitution. The significance of the preamble has been indicated in several decisions of the Supreme Court of India. It was akin to introducing the statute and very useful to comprehend the

policy and legislative intent. A preamble is unenforceable in the court of law. However, it positively brings out and states the objects that the Constitution seeks to establish and promote and aids the legal interpretation wherever uncertainty is likely to be found. Likewise, in the U.S.A, Justice Harlan (1905) in *Jacobson v. Massachusetts* (1905) stated that “It has never been regarded as the source of any substantive power conferred on the Government of the United States, or any of its departments. Such powers embrace only those expressly granted in the body of the Constitution and such as may be implied from those so granted”. It means that the preamble may never be a source of law. This will be positioned in Malaysia if the *Rukun Negara* becomes a preamble in the Constitution.

It can be concluded that a preamble cannot be regarded as the source of any substantive power conferred on the Government or any of its departments. A preamble provides significant help in interpreting the Constitution when words are ambiguous, but if the language of the Article is sufficiently explicit, it is not to be interpreted in the light of the preamble in preference to the obvious meaning thereof. The following paragraphs argue that the Constitution is self-manifestation; without the *Rukun Negara*, it can sufficiently settle constitutional issues that incite disputes among races and religious backgrounds in Malaysia. The *Rukun Negara* or the National Principles of Malaysia comprises five (5) fundamental domains or “The Principles” itself, namely “Belief in God,” “Loyalty

to the King and Country,” “Supremacy of the Constitution,” “Rules of Law” and “Courtesy and Morality.”

### ***Kepercayaan kepada Tuhan / Belief in God***

The first principle of the *Rukun Negara* is the belief in God. It is the heart of Malaysia's self-development and a standard to social life by all Malaysians who are multiracial and multireligious. This principle reveals that Malaysians nurture the belief in God, which means that Malaysia does not recognize any ideologies that oppose God's existence or so-called atheism. Belief in God can drive society in numerous good ways; for instance, society can uphold the religion's pure values. Suppose the community adheres to the teachings and what has been preached by their scholars piously. In that case, they will be able to attain a harmonious and prosperous life. Through religious ties, man acts as a responsible person and always maintains peace and harmony for their nation, all according to the pure values taught by their religions. Furthermore, people with religion tend to be always grateful in their lives; thus, a positive and healthy way of life is efficient for the sake of their nation's development.

The Constitution positioned Islam as the religion of the Federal. Simultaneously, it allows all individuals to practice their faiths in peace and harmony in Malaysia. The reason for such position could be examined through the intention of the framer of the Constitution back in 1956 when the Reid Commission was set up for

this purpose. Article 3(1) of the Constitution was implemented due to tolerance between Malays as the original ethnic and Chinese and Indian as a migrating ethnic before independence. It was a consensus agreement of Malays, Chinese, and Indian ethnics. Article 3(1) also becomes an instrument that permits all non-Muslim to practice their religions without prejudice. The said article is vital for preserving harmonious relationships in a plural society. Our Constitution is not just a document; in fact, it is “a social contract and peace agreements” (Faruqi, 2008). Islam is declared as the religion of Malaysia without neglecting the liberty to practice other beliefs. For that, Article 3 provides a balance sheet that protects the liberty to practice other religions without fear or restrictions.

Placing Islam as Malaysia's official religion has a significant effect. In fact, in the case of *Lina Joy v. Majlis Agama Islam Wilayah Persekutuan & 2 Ors.* (2005), it was held that “the provision in Article 3(1) was substantial and had a far wider and meaningful purpose than a mere fixation of the official religion and ruled that it has had significantly impacted the concept of religious freedom as well as the use of public funds for the advancement of Islam. Since Islam is the main and dominant religion in the Federation, it is a duty of the state to safeguard, uphold and promote Islam” (p. 296). The Federal Court positioned Islam as the religion of the Federation; nevertheless, Malaysia does not discriminate against people of other religions as they are allowed to practice their religions as long as they

obey the laws and not do things that disturb the rhythm of the lifetime of the Malaysian population.

Article 11 guarantees to “every person” in Malaysia, and not merely Malaysian citizens, the right to profess, practice, and propagate his religion. As opposed to citizen, a person would include permanent residents, migrant workers, tourists, international students, asylum seekers, and refugees while within Malaysia. However, the state is not playing an active role in protecting refugees or their rights. Instead, the United Nations High Commissioner for Refugees (UNHCR) since 1975 and other NGOs, including religious-based organizations, have played a crucial role in the Malaysian government to protect refugee rights (Ahmad et al., 2017). It does not protect every practice of religion. It is only the religion’s integral practice, which is obligatory or mandatory on its followers, to invoke constitutional protection. In *Abdul Hakim Othman & Ors v. Menteri Dalam Negeri Malaysia* (2018), the High Court decided that “the onus was on the applicants to establish that practicing the ideologies of *Hizbut Tahrir* was an integral practice of the religion of Islam and was therefore protected by Article 11(1) of the Constitution. In the present case, there was nothing in the affidavit affirmed by the applicants to show that practicing the ideologies of *Hizbut Tahrir* was compulsory or an integral practice of Islam” (para. 31 & 32). Therefore, the practice of the ideologies of *Hizbut Tahrir* did not become an integral practice of the religion of Islam

and was not protected by Article 11(1). Further, “based on the *fatwa* issued by the State of Selangor, it was established that practicing the ideologies of *Hizbut Tahrir* was contrary to the true teachings of Islam following *Ahli Sunnah Wal Jamaah*, and amounted to deviant teaching and practices. In the circumstances, the findings of the Fatwa Committee and the *fatwa* issued by the State of Selangor, which formed the basis of the decision of the ROS and the Minister, was legal and constitutional” (para. 33, 34 & 37).

Freedom of faith is secured for all religions; everyone has the right to adopt and practice his religion and propagate it (ILBS, 2017). Every religious group has the right to managing its own religious activities, establishing, maintaining institutional organizations for religious purposes or charity, acquiring and owning property, as well as holding and administering it according to the law (ILBS, 2017). Hambali et al. (2008) elaborated that “the right to religious freedom as stated by Article 11 of the Constitution has for so long functioned as the pulse of racial unity and harmony in Malaysia” (p.88). Today, however, the sense of respect and tolerance between races is hardly appreciated by the new generation due to education and society discrepancy. Many platforms should be initiated to overcome the gap. It is forbidden for a Muslim to force any non-Muslim to accept Islam because professing the religion is a matter of preference. Forcing non-Muslim into accepting Islam will only harm others’ feelings and sensitivities. At the same time,

practicing own religion should be allowed as long as it brings peacefulness to society and the world (Yusob et al., 2017).

In conclusion, the first principle of “*Kepercayaan Kepada Tuhan*” in the *Rukun Negara* defines the full understanding of the people’s fundamental right to profess any religion in Malaysia. It portrays that the people in Malaysia believe in God. Through proper religious beliefs, it will lead the nation as a great country. Although Islam has been declared an official religion of the Federation, other religions and beliefs can be practiced in peace and harmony in Malaysia. Any discrimination based on religion is condemned. The *Rukun Negara* drafting committee conscious of the importance of religion and belief in God in human life because the absence of religious belief will undermine people’s character and country. Making it as a preamble of the Federal Constitution may indirectly recognize the importance of the solidarity of members of the community towards their respective religious teachings and at the same time may be redundant since the principles have been already incorporated in the provisions of the Constitution.

#### ***Kesetiaan kepada Raja dan Negara /*** **Loyalty to the King and Country**

Malaysia adopted constitutional monarchy with Yang di-Pertuan Agong (hereinafter mentioned as YDPA) as the Head of State. Regarding the second principle of the *Rukun Negara*, namely “*Kesetiaan kepada Raja dan Negara*,” the principle seems to be aligned with some of the provisions

laid down in the Malaysian Constitution. Loyalty to the king and country means that every citizen should be dedicated, faithful, honest, and sincere to YDPA as head of the country and to the *sultan* as head of the state where they live in. This is crucial because the royal institution is one of the master keys to Malaysia’s stability. The King or YDPA is the head of the monarch in the federal. The phrase supreme head of Malaysia under Article 32(1) of the Constitution evidently places the YDPA as the supreme leader of the country; hence, when people devote their loyalty to the YDPA or the King, they are presumed as faithful to the nation itself.

The YDPA is the caretaker of the rights of people of all races in Malaysia. He must safeguard the unique position of the Malays and natives of the States of Sabah and Sarawak. In addition, the YDPA must protect the other communities’ legitimate interests in the country as well. Protection of these rights is stated clearly in the Constitution and further reinforced in the social contract agreement made during *Merdeka* (Independence) to afford citizenship to the non-citizen migrants before the *Merdeka* Day. This informal bargain was then incorporated into the Constitution. As a result, it was agreed that “new state would be Federation of Malaya, the YDPA as head of state, Islam as the state religion, and Malay as the national language” (Crouch, 1996). The YDPA, as the head of religion, plays an important role in Malaysia. The YDPA is the Commander in Chief of the Armed Forces and responsible for appointing several



essential positions in Malaysia. He is given the power to appoint the Prime Minister, the ministers and deputy ministers and the attorney general, Chief Justice, Court of Appeal President, Chief Judge of Malaya, Chief Judge of Sabah and Sarawak, Federal Court, Court of Appeal, and High Court Judge (ILBS, 2017). Moreover, in the oath taken by a new YDPA at his coronation, “he will promise to faithfully perform his duties in the administration of the country based on Malaysia’s law and constitution and to protect the Islamic religion” (Zainal, 2017).

The roles played by the Malay Rulers and the YDPA are in line with articles in Constitution. The significance of the principle is to ensure that the Malaysians give their full loyalty to the King as the “symbol of unity of the people in a multiracial nation” (Nor et al., 2015). “A loyalty devoted to the king also means the loyalty to the country itself” (Muslim & Umar, 2017). In conclusion, Malay Archipelago faced bitter experiences to the extent that some of the sultanates in the region collapsed due to imperialism’s political pressure. However, once it was declared that YDPA is the supreme head of the Federation, it binds the people to express their affection to the King and the *Sultans* at the state level. Any disaffection against the YDPA would mean disloyalty to the country and Article 32(1) of the Constitution.

### ***Keluruhan Perlembagaan / Supremacy of the Constitution***

Malaysia in 1957 adopted a written and supreme charter. The Constitution is the

supreme law of the Federation (ILBS, 2017). Constitutional supremacy means the government’s inferiority whereby the legislature’s power to make law is ceded to the requirements of a Constitution. Under *Keluhuran Perlembagaan*, it becomes an obligation for all the people to accept, obey and uphold the Constitution. The Constitution provides that “the Federal Constitution is the supreme law of the land and any law passed after the *Merdeka* Day which is inconsistent to the constitution shall be void to the extent of the inconsistency” (ILBS, 2017). The law passed by the Parliament or any State Legislature is valid if it is coherent with the provisions of the Constitution. It covers all pre- and post-independence legislations. The Constitution states that law passed before *Merdeka* Day will be valid as long as it is consistent with the Constitution and continues to be in force on and after *Merdeka* Day until repealed by the competent authority empowered by the Constitution (ILBS, 2017). The modification to conflicting laws must be made to ensure the validity of that law.

State law must be consistent with the Constitution or federal law. The law that is incompatible with federal law shall be void as stated in Article 162(2) and Article 75. Article 162(6) states that “the court or tribunal may apply the provision of any existing law which has not been modified on or after *Merdeka* Day to make it consistent with the provisions of the constitution.” Article 128 of the Constitution provides that the Federal Court has the power of determining the validity of the legislation.

The court may declare a legislative or judiciary as *ultra vires* and void if they are inconsistent with the Constitution (ILBS, 2017). This is to prevent the abuse of power. In the latest case of Letitia Bosman V. PP & Other Appeals (2020), the Federal Court held that “the Penal Code is a law that codifies most criminal offenses and punishments in Malaysia and s. 302 has been there in the Straits Settlement Code since 1872. Being a pre-Merdeka law, s. 302 of the Code could not be declared void or invalid pursuant to art. 4 of the FC. Any inconsistency between this provision and the FC can only be removed by invoking cl. (6) of art. 162. For any legislation passed after the Merdeka Day, the court’s power to strike down for inconsistency with the FC stems from cl. (1) of art. 4 of the FC” (paras 13-15 & 17).

The doctrine of constitutional supremacy means that the Constitution must guide every act of the Legislative. According to the rule of law related to constitutional supremacy, the judiciary must make sure that Parliament legislates according to the constitutional framework and all its agencies administer the legislation. By virtue of constitutional supremacy, the courts act as the final arbiter to issues related to the constitutions, and the judiciary is expected to demonstrate judicial dynamism to protect the Constitution. They may refer to the *Rukun Negara* in interpreting the constitutional issues without the need to put it as a preamble.

### ***Kedaulatan Undang-undang / The Rule of Law***

*Kedaulatan undang-undang*, or the rule of law, is the fourth Rukun Negara, which means that the government and the nation’s citizens are obliged to obey the law. According to *Frandsberg (2014)*, the rule of law implies the government’s accountability, equal access to justice, an effective judiciary and clear law, generally stable law, and protection of human rights. In Malaysia, the rule of law may be inferred from provisions for judicial review whereby all governmental actions may be reviewed by the High Court as stated under Articles 4 and 128 of the Constitution (ILBS, 2017). Dicey (1897) said that the rule of law consists of three aspects: the absence of arbitrary, equality before the law, and the primacy rights of an individual. The first aspect of the rule of law is the absence of arbitrary. In this aspect, it concerns about a person is free from any liability unless there are laws and punishments for such an action. A person shall be punished if only he has breached some laws. The second aspect of the rule of law is which equality before the law means no one is above the law. All citizens are accords equal protection under the law. The Constitution declares that “every person is entitled to have equal protection of the law and is equal before the law” (ILBS, 2017). Article 8 (1) guarantees that a person in one class should be treated the same way as another person in the same class. Courts have a vital role in determining that the laws passed by Parliament are consistent with the Constitution. The last aspect of the



rule of law is the predominant rights of an individual. This means that every person is granted freedom of liberties as stated in the Constitution from Articles 5 until 12 of the Constitution.

However, the rights are restricted, and a person is not allowed to trespass the limitation imposed by the Constitution. Every right is limited, which also means that the freedom given is not the absolute one. In the latest Federal Court decision of *Letitia Bosman V. PP& Other Appeals* (2020), the accused was charged, convicted, and sentenced to death by the High Court for the offense of murder under s. 302 of the Penal Code. The law makes it mandatory for courts to impose the death penalty for all offenders under ss. 39B of the DDA and 302 of the Code. The Court of Appeal affirmed the convictions and sentences of all the appellants, and they appealed to the Federal Court on the issue of the constitutionality of the mandatory death penalty. The issues raised by them were whether: (i) the power to determine the measure of punishment, namely, the mandatory sentencing provision is inconsistent with the judicial power in Article 121 of the Constitution and violates the doctrine of separation of powers; (ii) the mandatory death sentence violates the right to a fair trial under Article 5 (1) of the Constitution and violates proportionality principle sheltered in Article 8 (1) of the Constitution. The Federal Court held that “the right to a fair trial is a constitutionally guaranteed right. When the principle is applied to a criminal case, what it means is that an accused has a constitutionally

guaranteed right to receive a fair trial within a reasonable time by an impartial tribunal established by law. However, the right to a fair trial as enshrined in cl. (1) of art. 5 is not absolute and is subject to qualifications, which lie in the phrase ‘save in accordance with law’” (paras 118, 131 & 132). Therefore, the constitutional rights as guaranteed under articles of the Constitution can be taken away in accordance with the law. The above discussion concluded that all aspects of the rule of law had already been rooted in the Constitution.

#### ***Kesopanan dan Kesusilaan / Courtesy and Morality***

The fifth principle of *Rukun Negara* is courtesy and morality. This means a person is owes responsibility to act in good behavior and morality towards each other in society members regardless of their status. According to *Oxford Dictionary* (n.d), ‘courtesy’ is defined “as the showing of politeness in one’s attitude and behavior towards others.” While ‘morality’ supports the distinction between right and wrong or good and bad behavior. The principle of courtesy and morality is aimed at controlling one’s behavior and cultivating noble character, as well as a polite life order for the well-being of every Malaysian citizen. It serves as a guide to the behavior of society. It is maintained and developed accordingly with the character of the nation and pure values. This courtesy and morality principle allows the nation to build a better and liberal motion in accepting the practice other religions, races, and cultures in the

life of people of a multiracial country with respect and without discriminating against each other.

Parliament may enact any law to safeguard morality in Malaysia. Article 10 of the Constitution provides for freedom of speech, as well as the right to assemble peaceably and without arms that include the right of processions or pickets because a procession or picket is an assembly in motion. However, the right to assembly must be walled by restraints because freedom of speech may either be a way to tell the truth and encourage intellectual discourse, or it may be an instrument of malice and hatred. Faruqi (2015) noted that sources of pornography, racial bigotry, and promoters of anarchy, treason, and blasphemy often employed the Constitution as a shield behind which to hide. The media consistently confuses between matters of public interest and matters in which the public has a morbid or hidden interest. For this reason, all legal systems and societies, including Malaysia, impose some restraints on freedom of speech to secure the community's broader interest.

In *Ling Wah Press (M) Sdn Bhd & Ors v. Tan Sri Dato' Vincent Tan Chee Yioun* (2000), Eusoff Chin CJ in Federal Court decision said:

*"... freedom of speech is not an absolute right. Freedom of speech is not a license to defame people. It is subject to legal restrictions. An absolute or unrestricted right to free speech would result in persons recklessly maligning others*

*with impunity, and the exercise of such right would do the public more harm than good. Every person has a right to reputation, and that right ought to be protected by law"* (p. 737).

Article 11 of the Constitution stresses the liberty to practice religion in the Federation. It means that one cannot criticize other peoples' practices of religion. People may argue that the fifth principle's inclusion will open floodgates for people to convert, especially from Islam to other religions. The conversion cases are going to increase due to the generality of the fifth principle of *Rukun Negara*. Though the principle seems to be in general, it is inappropriate to say that the making of *Rukun Negara* as the preamble of the Constitution makes it easier to do so. This is due to the enforcement of Article 121 (1A) of the Constitution, which prevents the intervention of the Civil Court with Syariah Court in a certain specified matter. This specific provision itself does not allow the intervention of two jurisdictions of two different courts. It can be concluded that the principle of *kesopanan dan kesusilaan* or courtesy and morality is not contravening with the provisions of the Constitution. Indeed, it is the best way to promote and encourage other people to behave with good behavior. Nevertheless, it should not become a preamble to the Constitution.

This paper holds that the *Rukun Negara* should not be a preamble of the Constitution. It should be noted that drafting the Constitution and the *Rukun Negara* is different in many ways. The draft of

the Constitution was drafted by the Reid Commission to help the Federation of Malaya to gain independence in 1957. For the *Rukun Negara*, it was made due to riot that happened in May 1969 to enhance the spirit of harmonious society and encourage peace towards Malaysia's citizens, which consists of various diverse communities. It means the government and the citizens of the nation are bound by the law and are obliged to act not contrary to any law which has been passed. It shows that if the *Rukun Negara* is made as a preamble to our Constitution, it can never reflect the desire and intention of the Constitution. The rule of law in *Rukun Negara* will not have the same effect as Constitution since the initial intention of establishing them is already too much different. Suppose *Rukun Negara* is still insisted to be the preamble of the Constitution. In that case, it will be only possible if it had been drafted during the time of the Constitution drafting as both might share the same view and intention of its creation. In other words, it is safe to say that the current position of *Rukun Negara* is valuable as a medium of engaging and encouraging unity rather than being adapted as a preamble of the Constitution.

A national survey was conducted by KAJIDATA Research from 10 to 18th July 2017 to assess the level of pride of being a Malaysian. A total of 1,041 registered voters in Malaysia comprising 54.7% Malays, 24.6% Chinese, 7.3% Indian, 6.2% Bumiputera Sabah, 6.1% Bumiputera Sarawak, 0.6% Orang Asli and 0.6%. Respondents were selected based on random

stratified sampling along with ethnicity, gender, age, and state according to national demographics. The results indicated that Malaysians believe that unity was one of the vital building blocks of the nation. A total of 98.3% of the Malaysians stated their satisfaction as a Malaysian and with 85.9% responded that the *Rukun Negara* could be the foundation that promoted and fostered unity. The most interesting finding is that 59.6 % of the respondents were aware of the concept of constitutional monarchy in Malaysia. On the other hand, only 16% were not aware and 24.4% were not sure of the constitutional monarchy. Malaysia is a Federation of sovereign states headed by *Sultans*. The *Sultans* consented to form the Federation of Malaya in 1948 through Federation Agreement 1948 (the Agreement). The Agreement converted the Malay rulers into constitutional monarchs formally. Fernando (2014) contended that through a close examination and analysis of the primary constitutional records, the rulers battled a hurled war to safeguard their position, status, and their constitutional powers from being erased. The Agreement gave the Conference of Rulers a chapter in the Constitution. Without a doubt, most of Malaysia's current Constitution is based on the 1948 Agreement.

Introducing a preamble that manifested people's wishes and inspirations might cast aside the noblest hope and desire of the sovereign states enjoin to the Federation. In other words, the formation of this nation does not result from the wishes of the people residents in Malaya but was strongly

dependent on the consensus of the Malay Rulers. While the nature of a preamble is a kind of expression of inspiration of the people, the nation declared that the YDPA is the Supreme Head of the Federation. The Constitution imposed on the supreme head of the Federation to profess an oath that might differ from the *Rukun Negara*. The insertion of a preamble in a constitution usually focuses on the people's aspirations. The *Rukun Negara* aspires the harmonious racial relations, while the formation of the Federation is a result of the lust and attacks by western imperialism and communism in South East Asia.

## CONCLUSION

Malaysian Constitution is almost complete and comprehensive. Though there is some vagueness left in the Constitution, it is still open for interpretations without including the *Rukun Negara* as the preamble. Moreover, if the *Rukun Negara* is incorporated into the Constitution, it may cause confusion in enhancing and enforcing the law. The ideology embodied in the Malaysian Constitution may be contrary to what has been drafted and indented in the National Principle or the *Rukun Negara*. Besides, the nature of the *Rukun Negara* is just a mere campaign for unity but is opened to abuse by certain group of people with their hidden agenda. For example, the word liberal in the introduction to the *Rukun Negara* might suggest something contradictory to Article 3(1) as Islam is accepted as the country's ideology, and Article 37(1) that states the strong commitment by the

king to uphold Islam at all times. It is unreasonable to place the *Rukun Negara* as the preamble to the Federal Constitution after 63 years of the Constitution being enforced as it will undermine constitutional supremacy in Malaysia. If this happened, it might open floodgates for people who are dissatisfied with the existing provisions in the Constitution, law, and regulations to challenge it. If the preamble is employed as part of the Constitution, it shall prevail over the ordinary law and regulations, and eventually, the latter will override the existing provisions. Finally, the *Rukun Negara*'s spirit has been included and explained by few provisions in the Federal Constitution, and the differences are very much clear and obvious why the *Rukun Negara* will undermine the constitutional supremacy. Both have distinctive features and should continue as they are. Finally, the most important thing is that Malaysians must respect the provisions of the Constitution and each other's rights as part of the obligation to the social contract agreed in forming Malaysia as a nation. All of these are to be done, and if all Malaysians continue doing so, Malaysia will continue being a peaceful and prosperous country with racial harmony where people are free to regulate their livelihood according to their determination.

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