The Federal Constitution of Malaysia states that Islam is the religion of the Federation. This provision in Article 3(1), inserted in 1957 when the independence constitution was framed, has drawn considerable scholarly attention in recent years. Most of the studies, however, have not been able to consult the primary constitutional documents. Invariably, many have given varied and ambiguous interpretations of the provision. This article examines the primary constitutional documents and constitutional debates between 1956 and 1957 to trace the origin of Article 3(1) and to determine the intentions of the framers in inserting this provision in the constitution.

Article 3(1) of the Federal Constitution of Malaysia states that Islam is the religion of the Federation. This provision has drawn considerable debate in recent years from scholars, politicians, lawyers and the general public in Malaysia. Varied interpretations of the article have surfaced in recent years and the provision in the Federal Constitution continues to be widely debated from time to time because of its perceived ambiguity. Most scholarly work on the issue, however, has been based on information derived from a reading of the published material available on the Constitution - the report of the Reid Constitutional Commission, the White Paper on the Constitutional bill, Parliamentary proceedings, newspaper reports and judgements handed down by the courts in the context of previous cases.

Joseph M. Fernando is a Lecturer in the Department of History at the University of Malaya, Kuala Lumpur. He may be contacted at jmfernando@um.edu.my. The author would like to thank Dr Loh Wei Leng from the History Department at the University of Malaya for suggestions on an earlier draft of this article and two anonymous readers for their valuable comments.

1 Article 3(1) states: 'Islam is the religion of the Federation; but other religions may be practiced in peace and harmony in any part of the Federation.' Malaysia at the time of the drafting of the Federal Constitution in 1956–57 was known as the Federation of Malaya.

2 The Reid Commission, which drafted the Federal Constitution between 1956 and 1957, was chaired by Lord Reid, an Appeal Court judge in Britain. The other members of the Commission were Sir William McKell, a former Governor-General of Australia and Cabinet Minister; Sir Ivor Jennings, a constitutional expert and Master of Trinity Hall, Cambridge; Justice B. Malik, a former Chief Justice of the Allahabad High Court in India; and Justice Abdul Hamid, a High Court judge and former Secretary to the Ministry of Law in West Pakistan. The Commission, which was appointed following agreement between the Alliance government, the Malay Rulers and the British government at the London Conference in January 1956, took evidence in Malaya from political parties, organisations and individuals from June to October 1956 before travelling to Rome to prepare the draft Constitution. The draft was published on 20 February 1957 and submitted to the Alliance government, the Malay Rulers and the Colonial Office simultaneously. Joseph M. Fernando, The making of the Malayan constitution (Kuala Lumpur: Malaysian Branch of Royal Asiatic Society, 2002).

3 Federation of Malaya Legislative Council Paper No. 42 of 1957.