

The Origins and Evolution of Ethnocracy in Malaysia

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1. Introduction

How is it that today in the diverse, multi-ethnic polity of Malaysia (where government figures give a population breakdown of 65% Bumiputra, 26% Chinese and 8% Indian), a single ethnic group completely controls - and occupies virtually all positions in - the judiciary, public administrative organs, the police, the armed forces and increasingly the universities? While Malays constitute a majority of the population of this nation, their presence in all these spheres of power far exceeds their ratio within the general population. How did this situation emerge and how has it evolved?



It will be argued below that the injustices currently observed in Malaysia together with the ethnic streaming derive essentially from the 1948 Constitution which was created by the British in alliance with UMNO following the breakdown of the 1946 Malayan Union structure. The Constitutionally-mandated special place for the Malays provided for in the 1948 Constitution and subsequently in the

1957 Constitution has been used as a basis for all manner of exclusionist and discriminatory policies which have become increasingly socially encompassing, producing a situation where non-Malay members of Malaysian society feel themselves excluded and thereby ignored in terms of access to “public” facilities, funds and opportunities. The March 2008 election results were in part a reflection of sentiments over this socially inequitable situation.

2. The History of Ethnocracy in Malaya/Malaysia from 1942

Let us begin the account with 1942, and proceed to earlier times later in the paper. Even from the beginning of the Japanese invasion and occupation of Malaya and Singapore over the period 1941-45, it was obvious to the British and others that there would need to be a real reassessment of the British role in the peninsula and Borneo post-war. Planning for the post-war period of reoccupation and readjustment began almost as soon as the Japanese occupation had begun.

The British interests and powers in the peninsula pre-war lay in: 1) The British territories of the Straits Settlements. 2) Nine peninsular states where British power was nominally subordinate to the power of sultans by treaty, but which were essentially administered from Singapore. The British saw these states as appendages of their global empire, and that they had an almost divine obligation to exploit them and provide the administrations necessary to facilitate this. In a 1940s overview of the role of Britain in the region, it was noted: “Owing to the

development by foreign capital (British, Chinese, American etc.) of the valuable natural resources of the states, it has fallen to the British to develop the local administrative systems to build up the social services and to ensure law and order." [1] Essentially, all functions of a state were fulfilled by the British throughout the peninsula, with the Colonial Office noting of their efforts in the 1930s: "Our policy has been to maintain the sovereignty of the Malay Rulers, and to make it continually more real in those States where it had tended to become overlaid by our own direct Administration under the pressure of economic development (e.g. the decentralisation policy in the Federated Malay States). Our declared policy has also been to promote the well-being and efficiency of the Malay peoples and their educational fitness to fill the official services in their own territories. The continued and legitimate fear of the Malays has been that they would be swamped by the more efficient and numerous Chinese and to a lesser extent the Indians." [2] British political intentions post-war were also being set down in the early Pacific war years. "It may be necessary after the war to take steps to achieve some form of closer union of the Malay states (probably not only with each other but involving the Straits Settlements also) with a view to ensuring a common policy in matters of concern to Malaya generally."

We thus see, in August 1942, the expression in a joint British Colonial Office-Foreign Office policy paper of a "legitimate fear of the Malays" vis-à-vis other peoples in the peninsula, in combination with a British intention post-war to integrate the various political components into a political union. In respect of the Borneo territories, it was intended that: "Sarawak and Brunei would continue to be independent states under His Majesty's protection by treaty, but if some form of Malayan union was developed, it would be appropriate that Brunei at least and possibly Sarawak should be associated with that union."

Regarding North Borneo: "An opportunity will arise for proposing the direct assumption by the British government of administrative responsibility for North Borneo...and the state of North Borneo might also be associated with the Malayan Union." [3]

Soon thereafter, however, even before the end of 1942, the British, concerned about maintaining their post-war power in Asia, decided that Singapore should not be included in the post-War union. In a report by Sir W. Battershill, G.E.J. Gent and W.L. Rolleston on lessons from Hong Kong and Malaya, it was noted: "It is therefore suggested that the island [Singapore] should be excluded from any federation and/or customs union that may be established in the rest of the peninsula." [4]

At the same time, the political ramifications of the proposed union were being discussed in war-time Whitehall. There was concern that in the Malay states it had not been possible to "establish the status of Chinese born in a Malay State as British protected persons." This was important as "the Malay rulers have never been ready to recognise Chinese, however long established in their states, as being nationals of those states. It is desirable, even at this stage, that the formal status of 'British protected persons' should be given to those Chinese who are domiciled in the Malay States." [5] How to deal with the sultans was a key issue discussed. Lord Hailey who headed the Colonial research Committee tasked with investigating post-war arrangements in British colonies averred: "The treatment of the rest of Malaya is our most difficult problem. There is, on the one hand, the obligation of honour to replace the sultans in the position which our Treaties have assigned to them; there is, on the other hand, the need to take account of our announced policy of promoting self-governance in the colonies. It is obvious that there are many advantages in the existing system which is practically one of direct official rule, under the façade of 'advice' to the Malayan rulers!" [6] The dilemma was

expressed by Lord Hailey thus: “Actually, the greater part of the administration is carried out, in the Federated Malay States at all events, by officers or departments acting under direct orders of the Governor. Sooner or later we will have to face squarely the question whether we are to allow the façade of Sultan-rule to persist, with all the difficulties which it which it presents to the attainment of any form of self-government, or to build up a constitution on the basis of realities.” [7] While exploring this, he saw that Britain “shall be obliged to face two questions, first, whether the system is capable of being adjusted to the promotion of self-governing institutions, and secondly whether it will enable a suitable status to be given to those Chinese and Indian immigrants who may acquire a permanent interest in the country.” [8] His major concern was “autocratic rule in the hands of the sultans and their Malay advisers.”

By May 1943, the Colonial Office was stressing the ethnicity variable in any possible post-war arrangements: While opposing any rule by autocratic sultans, “at the other extreme it was important to ensure that self-government did not rest on the numerical counting of heads which would mean the swamping of the permanent resident communities (especially the Malays) by immigrants without a lasting interest in the country.” [9] The declaration of our purpose in carrying through the policy (the implementation of which would have to be studied on the spot) would be that Malay interests must be recognised as paramount in carrying through such a scheme, but that other communities with permanent interests in the country must be given their due opportunity to share in an advance towards self-government.” [10]

Here is a very clear statement by Colonial Office officials in 1943 that “Malay interests must be recognised as paramount” and that the idea of all individuals within Malaya having the right to equal representation would be a threat

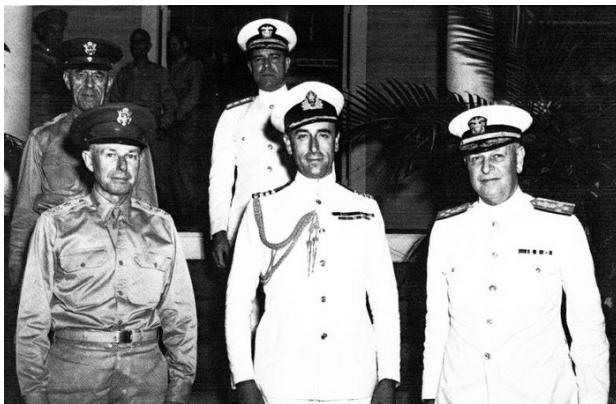
to such aim. No basis for such aspirations was openly stated. In the same year a Malayan Planning Unit was established to make arrangements for post-war Malaya, headed by a military official Major-General H.R. Hone, who opined that “One can see at once that from the point of view of administrative economy and convenience there can be no question but that we should establish a single protectorate over the whole of the mainland of the Malay peninsula, and set up a single government for it.” [11] By 1944, it was becoming increasingly clear that the British wished to retain absolute control over Singapore, and in a Colonial Office memo to the War Cabinet Committee on Malaya and Borneo, the following outline for the other parts of Malaya was set down:

“Our constitutional scheme should be designed, first and foremost, to provide for a union of all the Malay states and the settlements of Penang and Malacca. A central authority representing these States and Settlements should be created and at its head should be a Governor with an Executive and Legislative Council. The seat of Government of this Malayan Union would be conveniently at or near Kuala Lumpur.” [12]

As the Pacific War turned in the interests of the Allies through 1944, the War Cabinet was also involved in planning of the post-war Malaya, generally following Colonial Office recommendations. In the appendices to the War Cabinet memorandum on Policy in Regard to Malaya and Borneo, presented on 18 May 1944 to Clement Atlee, it was noted that: “The restoration of the pre-war constitutional and administrative system will be undesirable in the interests of efficiency and security and of our declared purpose of promoting self-government in Colonial territories. The first of these interests requires a closer union of territories comprising the relatively small area of the Malay Peninsula; and the second requires that self-government should not merely develop towards a system of autocratic rule by the Malay Rulers, but should provide for a growing

participation in the Government by the people of all communities in Malaya, subject to a special recognition of the political, economic and social interests of the Malay race.” [13]

However, into these smooth Colonial Office preparations for a Malay-dominated post-war Union in Malaya stepped a problem. Lord Louis Mountbatten, Supreme Commander of Allied Forces in the South East Asia, based in Ceylon, began to engage himself in post-war planning. In terms of overall political power, he expressed opposition to the reinstatement of the Sultans: “I am not in favour of reinstating the Sultans even as constitutional rulers and certainly not as autocratic rulers...But we must be careful not to abolish the Sultans ruthlessly.” [14] He urged some sort of Upper House position for them in a future legislature.



Louis Mountbatten (centre), 1941.

But it was in respect of the Colonial Office’s desire to assign a special position to the Malays in the post-war administrative structure that drew most of his ire. In July 1944, responding to the Colonial Office memo to the War Office, Mountbatten was to note: “My second point refers to the sentence in Para 1 of the Directive which reads that ‘Participation in the Government by all the communities in Malaya is to be promoted, subject to a special recognition of the political, economic and social interests of the Malay race.’ I cannot help feeling that in the long run nothing could

perhaps do more to perpetuate sectional antagonisms, to the risk of which you pointedly refer in your letter, than the giving of special recognition to one race.” “I feel that our objectives should be to break down racial sectionalism in every way open to us, politically, economically and socially, and to endeavour to substitute for it the idea of Malayan citizenship.” [15]

The Colonial Office mandarins obviously felt that Mountbatten did not really understand the exigencies of the situation in Malaya, and Mr Stanley of that office responded to the Supreme Commander’s concerns, informing him of the situation as their officers perceived it: “The Malays are, by general consent, not at present capable of competing on equal terms economically and educationally with the ‘immigrant races’ - Chinese and Indian. From the beginning of our relations with the States we have pursued in the Malay States the policy of taking positive measures to prevent the submergence of the Malays in the public services and in the ownership of land by the more energetic, competent and resourceful Chinese. The most damaging criticism of our new policy will be precisely on these grounds, since we are endeavouring to admit non-Malay communities to a political equality with the Malays in the State territories. We shall make certain of estranging the Malays unless we can assure them of measures not only in the political and social field, which will prevent such ‘equality’ inevitably resulting in their submergence, but also in such matters as the reservation of Malay lands, which otherwise will certainly pass into the hands of the ubiquitous Indian money-lender. Even Tan Cheng Lock, a leading Chinese of Malacca, admits this himself to a large extent.” [16] The letter concluded that: “..The social basis of Malayan society for some time to come cannot be expected to be other than communal, seeing that inter-marriage is virtually non-existent, and religion, language and domestic customs must be potent factors in maintaining the

present distinctions.” Mountbatten was however unimpressed:

I fully appreciate that the social basis of Malayan society cannot for some time be other than communal, and that the fostering of the three peoples of Malaya of the conception that they are in fact Malayans, will be an uphill business. ...Since I wrote to you, I have received from the War Office copies of the Directives on Chinese policy, and on the Creation of Malayan Union Citizenship. It is essential that the Chinese and Indian elements should be legally assimilated, and should be made to feel committed to local responsibility, instead of being merely a group of exploiters, or a source of cheap labour.

...

I am sorry to see from your letter that the Malays should by general consent be found incapable of competing on equal terms, ‘economically and educationally’, with the Chinese and Indians. I have no reason to suppose that this opinion is not fully borne out; but it seems to me that indigenous peoples sometimes appear lazy and unambitious, largely because they are unwilling to compete with lower standards of living and wage conditions established by immigrants, who are without roots in the country, and cannot afford to turn down a standard of wages which those who have homes and relations on the spot are not forced to sink to. I do not suggest that the Malayan is at the mercy of cheap coolie labour from China; but it is

so easy to give a dog a bad name that one is inclined to fear that an opinion of the natives’ qualities may become an *idée fixe*, which will militate against a proper appreciation of their potentialities under improved conditions. [17]

Thus, by August 1944, the lines were clearly drawn. On the one side was the Colonial Office arguing for a special protected position for the Malays, and on the other Admiral Mountbatten urging a general Malayan citizenship with all having equal rights and responsibilities.

The Malayan Union (1946) and the Federation of Malaya

Meanwhile, with the Japanese surrender in August 1945, the urgency of new administrative and constitutional arrangements increased and in preparation for the new Union proposed by the British, which involved the sending of Sir Harold MacMichael to Malaya to meet with the various sultans. He was tasked with gaining their signatures on documents which would see their vestigial power being turned over to the British crown, as a precondition for the establishment of the Malayan Union. [18] Under the Malayan Union proposals, the Sultans were relegated to Council of Sultans who would discuss Islamic matters. Each state to have a Malay Advisory Council, consisting of the Sultan and other Muslims appointed by the sultan, just to advise sultan on matters of religion. In matters of citizenship, any person born in Malayan Union or Singapore, and any person who had resided in the Malayan Union or Singapore for ten years would be citizens as would persons born of fathers who were citizens of the Malayan Union. [19] This Union, which in many ways, followed the ideas of Mountbatten, was implemented in April 1946. The idea of social equality among the various ethnic groups was not, however, to have a long life-span. Cheah Boon Kheng notes that: “Under the plan, the

British had intended to end Malay sovereignty, impose direct rule in Malaya and create an equal citizenship for both Malays and non-Malays. If this plan had been fully implemented, Malaya would have become more of a 'Malayan' nation-state than a 'Malay' nation-state" [20]

The Malayan Union was to last but two years and during this period it was subject to a remarkable turnaround on the part of the British. Through 1946 and 1947, there was a 180- degree turn from a proposed polity with equal citizenship to one where Malays were dominant, privileged and power-brokers. Some of this story has been detailed by Albert Lau in his account of the Malayan Union, [21] but many documents remain unreleased by the British. The full story of this reversal and the huge effects this had on the subsequent development of Malaysia remains to be written.

However, a major element was the creation of a Malay political party during this period - the United Malays National Organisation (UMNO), which was led by the Johor political elite and headed by Onn Jaafar. A key element of its creation was the intent to oppose the Malayan Union arrangements.



Opposition to Malayan Union, 1946

By July 1946, the British responded to Malay concerns about the Malayan Union by creating

a 12-man “Political Working Committee” comprising six government representatives, four royal delegates, and 2 UMNO representatives to consider and recommend a new constitutional framework for the Malayan Union. The question remains as to why it was decided that only Malay representatives were to negotiate the future of Malaya with the British. Was it simply the Colonial Office officials reasserting their paternalistic concern for Malay people, or was it an awareness of the growing power of the Left, represented predominantly by Chinese persons, which sparked this remarkable change? Regardless of the reasons, this decision must be seen as the most fateful and harmful decision in the British decolonization of Malaya.

This Committee, in a remarkably rapid six months, concluded its deliberations in December 1946 and recommended:

1. A Federation of Malaya to replace the Malayan Union. To comprise nine peninsular states together with Penang and Malacca
2. It proposed a central government comprising a High Commissioner, a Federal Executive Council and a Federal Legislative Council
3. In each Malay state the Government shall comprise the ruler assisted by a state Executive Council and a Council of State with legislative powers. In each of the Straits Settlements, there will be a Settlement Council with legislative powers.
4. There will be a Conference of Rulers to consult with each other and with the High Commissioner on state and federal issues.
5. Defence and external matters will be under British control.
6. Rulers would undertake to

accept the advice of the High Commissioner in all matters relating to government, but would exclude matters relating to Islam and Malay customs.

7. Proposed that the Legislative Council comprise the High Commissioner, three ex-officio members, 11 official members, 34 unofficial members including heads of government in the nine states and two settlements and 23 seats for representatives of industries etc

8. UMNO and Sultans would agree to this only following the scrapping of the MacMichael treaties.

A key element of the proposals was that relating to citizenship. A new Malayan citizenship - which was not to be a nationality - was proposed in the Federation plan. This was an addition to nationality and the committee explained it as a possible qualification for electoral rights, membership of Council or other privileges and obligations. Federal citizenship would be acquired by: 1. Any subject of the ruler of any state. This included all Malays and excluded all non-Malays. 2) British subjects born locally. 3) Children of fathers who were federal citizens.

Shortly thereafter a Consultative Committee under Harold Cheeseman, Director of Education Malaya, was convened to collect views offered by "all interested individuals and groups". The Constitution was obviously drafted by the Colonial Office in London. While the Governor General and the Colonial Office both declared that there would be no final decision on the Constitution without wide-ranging public consultation, it was obvious that all previous proposals of an egalitarian society had been scrapped, the feudal rulers were to be maintained to bolster Malay claims to power, the Legislative Council was to be

powerfully weighted towards the Malays and all other communities were to be essentially sidelined. The Constitution was thus a blueprint for Malay ethnocracy.

The Australian Commissioner in Singapore was certainly observing the events closely for, when he reported to Canberra in the same month, he advised: "There has not yet been time to gauge reactions to the Federation scheme, but it can safely be assumed that it will be the object of bitter attack from the non-Malay communities who have lately shown resentment of the fact that negotiations have proceeded so far without their being consulted. In particular they are bound to object to the citizenship proposals which are rather more exclusive than they had hoped for." [22]

Reactions to the Federation of Malaya Proposals 1946-1948

On the same day as the new Constitutional proposals were released - 14 December 1946-- a Council of Joint Action was established in Singapore to oppose the proposed Constitution. The initial meeting was attended by 75 delegates, including representatives of the Malay Nationalist Party, [23] the Malayan Democratic Union and various trade unions. Tan Cheng Lock was elected as chairman. The Council adopted three principles to guide their opposition: 1) A united Malaya inclusive of Singapore; 2) Responsible self-government through a fully elected Central legislature; 3) Equal citizenship rights for all who make Malaya their home.

The first principle violated everything the British were working toward with the new proposals. By including Singapore in the new Malayan polity, the ethnic proportion of Malays would fall below that of Chinese, which would nullify the alleged validity of the proposals. [24] In addition, the British were unwilling to give up the security and economic benefits of retaining Singapore as a Crown Colony. Britain was at this time heavily involved with deciding

on how to deal with larger problems – India and Burma, and a decision was taken in February 1947 that Britain would withdraw from India by June 1948, a date which Mountbatten later changed to August 1947. [25] The importance of retaining Singapore was stressed early in 1947 by the British Foreign Minister Bevin who noted: “Our imminent withdrawal from India and Burma makes South East Asia the main centre of British interest and influence.” [26]

The year 1947 was to prove a year of political wrangling, and one where UMNO was to attempt to consolidate the foothold which the Colonial Office had provided them. In January of that year, at the opening of the UMNO General Assembly in Kedah, the Sultan of Kedah urged that “the Malay rulers and UMNO must join hands in carrying out the constitutional proposals for the benefit of the Malays,” while Dato Onn emphasized that the peninsula was the home of the Malays and “we shall preserve it as the home of the Malays.” [27]

Meanwhile, both Malayan Left and Right combined in opposition to the proposals. On 12 January 1947, the Malayan Communist Party [28] issued a statement condemning the Constitutional proposals and announcing support for the Council of Joint Action. On 26 January, the Pan-Malayan Council of Joint Action (PMCJA) held a meeting in Kuala Lumpur, passing resolutions calling for members of the Consultative Committee and Advisory Council to resign. The Penang Chinese Consultative Committee also rejected the Constitutional proposals on the grounds that they were “a direct violation of the United Nations declaration regarding non-self-governing territories.” [29] On 24 February 1947, the Pan-Malayan Chinese Chamber of Commerce passed a resolution at Kuala Lumpur rejecting the constitutional proposals and urging that a Royal Commission be established to examine the possibility of giving Malaya full dominion status.

In response, Edward Gent, Governor of the Malayan Union, publicly responded only to Tan Cheng Lock, Chairman of the Pan-Malayan Council of Joint Action, advising that the government could not recognize the Council of Joint Action as the sole body with which to conduct negotiations on Constitutional issues. [30]

But the opposition crowds grew larger, and at a gathering of 4,000 persons on 18 February 1947 in Malacca, Tan Cheng Lock denounced the federation proposals because of the difficulties of acquiring citizenship they would entail: “We demand for Malaya a constitution based on democratic and liberal principles which will guarantee the fundamental rights and liberties of its citizens who are permanently settled here and who are prepared to give Malaya their undivided loyalty, with the proviso that the stronger members of the Malayan community must extend a helping hand to the weaker ones particularly our Malay brothers who must be uplifted to the economic level of the other inhabitants of this land.”

On February 22, 1947, a new coalition of Malay political and cultural organisations called *Pusat Tenaga Rakyat* (PUTERA) was organised to act as a counter weight to UMNO. A total of 29 organisations including PKMM, Barisan Tani Se-Malaya (Peasant's Union or BATAS) and Hizbul Muslimin were part of this coalition. The following month PUTERA formed an alliance with PMCJA to coordinate their efforts against the draft Federation Constitution. The PMCJA-PUTERA alliance then decided in May to draft their own proposed constitution and a committee was formed for that purpose. [31] In that month a huge rally was organised against the constitutional proposals by PMCJA-PUTERA. Again they urged: 1) A united Malaya including Singapore 2) Elected central, state and settlement legislatures 3) Equal rights for all who made Malaya their home 4) Constitutional sultans who governed through democratic state councils 5) Special measures

for the uplift and advancement of the Malay people. [32]

Despite the widespread opposition to the proposals from members of all ethnic communities of both Left and Right, the Cheeseman Consultative Committee report was completed and published by 19 April 1947 -again a remarkably swift period of "consultation" on such a key issue, underlining that the Colonial Office did not want to see their plans upset. As expected, the Cheeseman report did not recommend radical changes -only: 1) Seven instead of five unofficial members to be appointed to the Federal Executive Committee; 2) Legco to be comprised of 52 instead of 34 unofficial members and 23 instead of 14 official members. 3) Residence qualifications to be five out of previous ten years.



Meeting of British colonial administrators, sultans and UMNO representatives, 1947

Within four days, on 23-24 April 1947, Malcolm MacDonald met in Kuala Lumpur the members of the Governor-General’s Advisory Committee, comprising only the Malay Rulers, representatives of the United Malay Nationalist Organisation and government officials, in order to discuss the Cheeseman report. On 24 July 1947 the Summary of the Revised Constitutional Proposals was published. This included a provision for a Malay majority in the

proposed Malayan legislature, a provision not endorsed by the Cheeseman Committee which preferred an equal balance between Malay and non-Malay interests. Again we see the Colonial Office and Malcolm MacDonald joining with Dato Onn in laying down the basis for Malay ethnocracy in the new Malaya. These proposals were then submitted to the British Government. [33] The speed with which this was done and the fact that no Malaysians other than Malays were engaged in the deliberations shows that the Colonial Office would brook no opposition to its policies.

In a very detailed report on the constitutional proposals by the Australian Commissioner in Singapore to the Minister for External Affairs in Canberra, some of the deficiencies of the plan were pointed out: He noted the opposition to the proposals mainly from PMCJA in Singapore and the Chinese Chambers of Commerce, which was ignored by the Colonial Office. He also noted that the citizenship proposals seem unreasonably exclusive, and were too restrictive in terms of residence and that requiring people to speak English or Malay excluded many Indians and Chinese. His conclusion was indeed prescient. "It would appear, however, that the need to protect the Malays is politically more important than to satisfy the aspirations of the other domiciled communities." The commissioner was likewise astute on his views for Singapore’s exclusion from the scheme. "Singapore’s exclusion, therefore, would seem to be due to political considerations arising from her predominantly Chinese population and the strategic importance in the defence plans of the British Commonwealth." [34]

As noted, key to Malay aspirations to power and concerns by the other communities were the citizenship provisions of the proposed federal Constitution. It provided for Federal citizenship for:

1. Any subject, wherever born, of

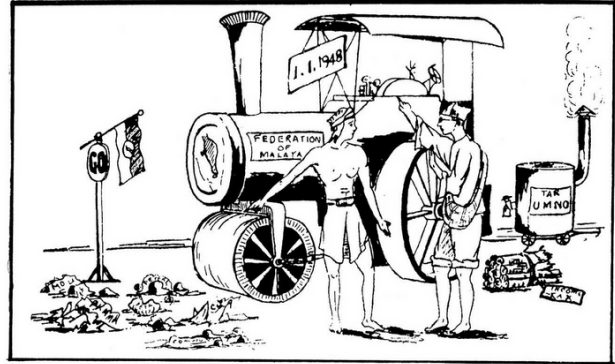
His Highness the Ruler of any State.

2. Any British subject born at any time in the settlements and has resided there for 15 years
3. Any British subject born in the territories of the federation and has resided there for 15 years
4. "Any person born at any time in any of the territories now to be comprised in the Federation, who habitually speaks the Malay language and conforms to Malay custom."

The first and fourth categories included every "Malay" [35] person in the peninsula, regardless of length of residence there, while the other provisions imposed residential requirements on persons of other communities. Again we see a concerted effort to exclude non-Malay persons from the polity and further efforts toward Malay ethnocracy.

The Colonial Office validated this as follows: "The present scheme is designed to include in a common citizenship all those, whether Malays or non-Malays, who can fairly be regarded as having Malaya for their true home. The Malays, however, are peculiarly the people of the country. They have no other homeland, no other loyalty. They thus have a special and justifiable interest in immigration policy, which it would be inequitable to refuse them." [36] The refusal to acknowledge that the "Malays" had migrated to the peninsula from many other places in the archipelago was conveniently ignored in this disingenuous effort at validating Malay supremacy. Control over immigration was thus ceded to the sultans. "Holding that the Malays have a special and justifiable interest in immigration policy which it would be inequitable to refuse them, the British Government has agreed that it shall be the particular duty of the High Commissioner to consult the Conference of Rulers from time to

time on the immigration policy of the Government, and in particular when any major change in such policy is contemplated by the Federal Government." [37]



A Leftist cartoon of 1947 depicting the Federation of Malaya steamrolling the Leftist and Centrist parties with UMNO tar. (Courtesy of Fahmi Reza's [blog](#).)

Local press reaction (excluding the *Straits Times*, which was the mouthpiece of the Colonial Office and Malayan government) was scathing. The editorial of Singapore's *The Morning Tribune* pulled no punches when it noted: "The final Constitutional proposals, which were published in a White Paper yesterday, are bitterly disappointing. They constitute capitulation to pressure from the Malays." [38] *The Times* of London laid out the official government policy and reasons for the institution of this ethnocracy: "It is clear from the White Paper just published that the earlier mistakes which alienated the attachment of the Malay Sultans and drove the Malay community to the verge of violent action have been satisfactorily corrected....An important feature of the new proposals is the recognition by the Cabinet that the Malays form an absolute majority among those who regard Malaya as their permanent home and the sole object of their loyalty. This principle governs the future immigration policy, the Malay community's position in the projected constitution, the status accorded to the Sultans, and the

qualifications for Malayan citizenship.” [39]

The claim that “the Malays form an absolute majority among those who regard Malaya as their permanent home and the sole object of their loyalty” was neither validated nor supported, but it was an effective hook on which to hang British Colonial Office policy. Over the following months, the Governor General Malcolm MacDonalld made repeated radio broadcasts stressing the bases for the new Constitution. On 5 October 1947, MacDonalld broadcast as follows: “To begin with, let this be remembered. The negotiations leading up to the Constitution ended a period of sharp political unrest and agitation which stirred to their depths the feelings of the entire Malay population. Eighteen months ago a peaceful and orderly, but unanimous and passionate Malay opposition to the Malayan Union cast a dark shadow across the once sunlit and placid political scene in Malaya. Virtually the whole people of the majority race in the country had lost confidence in the Government.” [40] Again in January 1948, he told listeners that “Malay Kingdoms ruled by Malay princes date back many hundreds of years. They are the truest sons and daughters of the Malayan soil.” [41]

However, the British seemed quite content to ignore the other communities who were actively expressing their loss of confidence in the government, and had been in the peninsula in many cases far longer than recent “Malay” immigrants from Sumatra, Java, the Middle East, and Sulawesi. Hartals [42] were held in Malacca, Perak, and in Singapore throughout October. Shops were closed, plantation work ceased and commerce was absent during these days of protest. Opposition came from the Left – the Pan-Malayan Federation of Trade Unions, All-Malaya Council of Action, Association of Progressive Malay Political Parties (Putera), as well as the Right -- the Chinese Chamber of Commerce. An entire alternative Constitutional proposal was in fact put forward by Putera and

AMCJA. [43] The Associated Chambers of Commerce of Malaya held a meeting on 18 January 1948 and agreed to boycott the Federal Legislative Council and the various State Councils under the new constitution.



Pan-Malaya hartal, October 1947

The Malaya Tribune in an editorial on 24 January set down the overall objections to the procedures. “For reasons best known to themselves, the British Government has seen fit to completely ignore Chinese representations on the constitutional issue. The original proposals for a broader based legislature and the creation of a national status came from Great Britain, only for the last named to be withdrawn immediately on protests from the right-wing Malays whose boycott immediately brought the British Government to heel and all conduct of affairs since has been at the virtual dictation of the Malays..... the facts considered, it is hardly surprising that Chinese opinion is not prepared to see its leaders enter into the farce of serving upon the Malay-dominated Council and thus giving the appearance of seriously accepting the constitution as a reasonable stepping-stone towards political advancement.” [44]

But the plans of the Colonial Office would brook no delay and on 21 January 1948, state

and Federation Treaties were signed by Malayan Union Governor Sir Edward Gent and eight of the Malay Rulers. On 1 February 1948, a Malay-dominated Federation of Malaya was initiated.

The 1948-1957 Period

In the middle of 1948, the Malayan Communist Party launched armed rebellion against the new state and the British state which controlled it. The degree to which British failure to include Chinese aspirations in the 1948 Constitutional arrangements precipitated the rebellion or encouraged the assistance it was to receive from the Chinese communities and the Left from all communities remains an issue for further study.

But it also provided a further avenue by which UMNO could dominate the political firmament of the Federation and further exclude Chinese participation. The Colonial Office political report for November 1948 noted: "The Emergency has given the Malays an opportunity to improve their political position which they have not been slow to take. They point to the leading part which the Malay community is taking in the fight against terrorism, through the Malay regiment, the regular police and the special and auxiliary police. They contrast this with the behaviour of the Chinese." [45] The Colonial Office was likewise coming to recognize some of the abuse which they Constitutional arrangements they had created were leading to: "There is no doubt that U.M.N.O. is aiming at a form of government in which non-Malays will have little share and in this they are influenced in the hope of 'rapprochement' with the M.N.P.. The latter party has been lying low since the emergency and Dato Onn is known to hold the view that the two parties much work together at this stage and sink their differences at least until the Malays have gained a more secure foothold in the Federal Government." [46]

At the same time, an anti-Chinese attitude

became manifest among many of the British administrators. A letter from Gimson, the Governor of Singapore to J.O. Higham on 15 October 1948 included a report by an unnamed person relating to revision of the Register of Electors. The report included the following: "I am convinced the attitude of 90 percent of the Chinese is this: 1. Singapore and Malaya belong to them, virtually at present, factually in due course; 2. The British are weak and growing weaker. Japan walked in seven years ago with ease. The Chinese are already in; they are merely biding their time; 3. In one respect, they are all agreed whether they be KMT or Communist, they are anti-British." The report, which Gimson chose to circulate, noted that the Government had to strike immediately and strike hard at all Chinese movements.

Given how the British government had treated the non-Malays in Malaya since 1946, such Chinese sentiments if they existed would have been fully comprehensible. However, this demonization of the entirety of the Malayan Chinese population validated, in the eyes of many, their exclusion from the Malayan political process. It was further endorsement and strengthening of the burgeoning Malay ethnocracy.

While demonizing the potential opposition, the British needed to also strengthen their anointed successors. In MacDonald's view, Dato Onn had to be regarded as the accepted leader of the Malays, so that he would be in a position to make his views prevail with them. In December 1948, Dato Onn travelled to Britain to discuss self-rule in Malaya. Again the British accepted that this individual represented Malaya, yet still found his request for a grant of 10 million pounds a little difficult to accept. Paskin of the Colonial Office reported on the visit and discussions as follows: "Another topic which provoked some bitter remarks was his suggestion that H.M.G should now make a grant of £10,000,000 for expenditure on objects of benefit to the Malays." This has two grounds:

a) As a means of improving the competitive position of the Malays vis-à-vis the Chinese. B) As a gesture to reassure the Malays that H.M.G is mindful of their special position in their own country” He also requested that a Malay be appointed as Deputy High Commissioner. [47]



Dato Onn Jaafar

The year of 1951 was to be another crucial year for the peninsula. The founding leader of UMNO Dato Onn Jaafar, who had had been so dogmatic in championing the rights of the Malays left the party in that year to set up the Independence for Malaya Party (IMP) in September following UMNO’s refusal to open its membership to non-Malays.. However, when the party suffered a devastating defeat in the 1952 Kuala Lumpur municipal elections to an UMNO-MCA coalition, Onn Jaafar abandoned his multiethnic platform and formed Parti Negara that eventually became an avowedly pro-Malay party. He was replaced as head of UMNO by Tunku Abdul Rahman. This was an opportunity for non-ethnicized politics which

was completely bypassed by Malaysians. Again this missed opportunity must be in part assigned to the earlier activities of Dato Onn himself but equally to the policies of the British in terms of their absolute enthusiasm for Malay-dominated ethnicized politics in the peninsula.

The year also saw the effective containment of the MCP rebellion which had been launched in 1948. The MCP shifted its strategy following its October Resolution of 1951, and the armed struggle was relegated to second priority. The year also saw the introduction of local elections. The George Town elections were held in 1951 and the Kuala Lumpur elections in February 1952.

In January 1952, an “alliance” was entered into by UMNO and the Malayan Chinese Association (MCA) to contest the Kuala Lumpur elections, to face off against Dato Onn’s IMP. The non-communal nature of the IMP was to prove its downfall, and the UMNO-MCA Alliance emerged elect orally supreme by 1953, while IMP still held their seats on the Federal Legislative Council. UMNO calls for elections to 44 of 75 Federal Legislative Council seats thus ensued. Joseph Fernando has argued that the events of this year can be seen as key in the movement towards Independence. In response, the colonial administration announced in July 1953 plans to establish a committee to examine the issue of federal elections. The resultant recommendation, announced in February 1954, was for less than half of the members be elected. High Commissioner Gerald Templer urged a higher figure, but insufficient to meet Alliance demands. In response, the Alliance sent a delegation to London to raise the issue directly with the Secretary of State for Colonial Affairs Oliver Lyttelton, who rejected their proposals.

In 1954, state elections were held and in these elections, the Alliance won 226 of the 268 seats nationwide. On June 13, 1954, the colonial

government published its White Paper on federal elections providing for a small majority of elected seats. In response, the Alliance withdrew its members from the legislatures, municipal and town councils and organised nationwide demonstrations, resulting in negotiations with the British High Commissioner Donald MacGillivray, agreeing to an acceptable compromise on seats. The first federal elections were held in July 1955 on the basis of this arrangement, and the now UMNO-MCA-MIC Alliance won 51 of the 52 seats available, and thus was able to form the first Malayan government, with Tunku Abdul Rahman as Chief Minister. [48]

A London conference with Secretary of State for the Colonies Alan Lennox-Boyd to discuss eventual independence was then held in January 1956. As a result of the discussions, the British government agreed to grant Malaya independence on 31 August 1957.



Constitutional discussions between Britain and Federation of Malaya, London, 1956

In preparation, a commission was established under Lord William Reid to devise a constitution for the future Federation of Malaya. The Reid Commission met on over 100 occasions in 1956 and submitted its draft Constitution to a Working Committee in February 1957. This Working Committee

consisted of four representatives from the Malay rulers, another four from the Alliance government, the British High Commissioner, the Chief Secretary, and the Attorney General, ensuring that it was essentially the interests of the Malays which were being represented. Tunku Abdul Rahman was to write in his memoirs that he prodded his colleagues to agree to the terms by arguing that they could be amended later on — after independence: “It was, of course, not a perfect constitution ... But we knew we were going to be in power with an overwhelming majority and if any changes appeared necessary we would amend the constitution. ... So why waste haggling over it at that stage? I just told my colleagues to accept everything that was proposed” [49] The Constitution took effect on 15 August and on 31 August the Federation of Malaya became an independent country.



Merdeka: (From left) Tunku Abdul Rahman, first Yang di-Pertuan Agong Tuanku Abdul Rahman and MacGillivray standing outside King’s House in Kuala Lumpur after signing the Merdeka Agreement on Aug 5, 1957.

1957-1969 - Ethnocracy Consolidated

Under the new Federation of Malaya, UMNO became increasingly assertive in promoting Malay dominance, an assertiveness not

matched by the Malayan Chinese Association president Tan Cheng Lock in promoting the interests of his constituency. It was partly this attitude which saw Lim Chong Eu and his supporters - mainly Chinese-educated -- seize power in the MCA and Lim becoming the second MCA President in 1958. The feisty newcomers clashed swiftly with UMNO in asserting the interests of the Chinese and seeking political equality as well as Chinese language and cultural rights. Matters came to a head with the 1959 election. The MCA felt that the 1957 Constitution provided insufficient safeguards for the Chinese community, and that in order to prevent a two-thirds majority of parliamentary seats going to UMNO (allowing them to change the Constitution at will), sought from Tunku Abdul Rahman an increase in allocated seats from 28 to 40 (out of a total 104). If MCA could contest and likely win one-third of the seats for the Alliance, no ethnic group would have absolute control of Parliament. The Tunku rejected this and Lim and his supporters resigned from the MCA, [50] allowing Tan Cheng Lock and his son Tan Siew Sin to return to the leadership. The seats were eventually allocated as follows: UMNO 69, MCA 32 and MIC 4. The Alliance coalition was to go on and win 74 out of 104 seats, allowing a two-thirds majority, sufficient to amend the Constitution at will. Cheah Boon Kheng notes of this election: But this was probably the last general election in which [the Alliance] would allow for this free play of democratic forces. Thereafter, it would resort to constitutional gerrymandering of constituencies to ensure communal representation. An amendment of 1962 to the Constitution provided for rural weightage in the determination of electoral districts. As the majority of the rural population was Malay, this provision ensured a high representation of Malays in Parliament. [51]

Creation of Malaysia (1963)

The win in the 1959 elections, in alliance with an emasculated MCA, gave the Tunku

confidence, but before he could begin to fully pursue and promote preferential policies for the Malays, another major political opportunity presented itself. The British-instigated plan to establish a new state of Malaysia, [52] as expressed in the late 1950s and early 1960s, and made public as a proposal in speeches by the Tunku in 1961, [53] was in part a Cold War strategy by which to prevent Singapore and the Borneo Territories from becoming Communist bases, and ensure that the British could maintain bases in the region by which to pursue their own global strategies. The anti-Communism which drove this agenda was often manifested as anti-Chinese sentiments both among the British and the Malays. The Tunku eventually advised that he was amenable to the new arrangements if, in addition to Malaya and Singapore, the new state definitely included Sabah, Sarawak and Brunei. The aim was to ensure that the Chinese did not constitute a majority in Malaysia. It was in the negotiations leading up to this new state that a new Constitution was enacted, in which the Malay special rights were also made available to the “natives” of Sabah and Sarawak, and on 31 August 1963, Malaysia (excluding Brunei) came into being.

With a new mandate in a new state, an increased “Bumiputra” population, British support, broad anti-Communist sentiments and the Chinese community divided between Left and Right, the Tunku began further reforms in pursuing a Malay-dominated state. Pushed by Tun Abdul Razak and Dr Ismail, the Tunku approved the creation or expansion of Malay-targeted institutions - Majlis Amanah Rakyat (MARA), the Federal Agricultural Marketing Authority (FAMA), the Rubber Industry Smallholders Development Authority (RISDA), and Bank Bumiputra. These were mainly aimed at improving the lives of Malay farmers. More broadly, however, there were cultural moves afoot, with both the semi-governmental institution Dewan Bahasa dan Pustaka (DBP), led by Syed Nasir Ismail, and the National

Language Action Front (NLAF) formed in 1964 in reaction to Chinese opposition to the Talib report on education, strongly urged the adoption of Malay as the national language.

But it was Singapore, led by Lee Kuan Yew, which was to be the most actively engaged in actions which were aimed at working against the emergence of an ethnocracy in Malaysia. It was during the two years when Singapore was a part of Malaysia that Lee Kuan Yew led the Malaysian Solidarity Convention (MSC) — a coalition of political parties which called for a "Malaysian Malaysia" as opposed to one with Bumiputra privileges. The MSC declared:

A Malaysian Malaysia means that the nation and the state is not identified with the supremacy, well-being and the interests of any one particular community or race. ...The special and legitimate rights of different communities must be secured and promoted within the framework of the collective rights, interests and responsibilities of all races. The people of Malaysia did not vote for a Malaysia assuring hegemony to one community. Still less would they be prepared to fight for the preservation of so meaningless a Malaysia. [54]



Lee Kuan Yew (R)

After two years of struggle, riots, and gradually widening views on the future directions of the country, Singapore was ousted from Malaysia on 9 August 1965. The departure of Singapore and its largely Chinese population from Malaysia allowed UMNO to further consolidate the ethnocracy which now clearly marked federal and state politics. The increased reliance of Malay in government affairs and the consequent downplaying of English was a part of this. In opposition to the increasing privileges and separateness of the Malays, the Democratic Action Party (DAP), which had evolved out of the Malaysian branch of the People's Action Party continued calling for a "Malaysian Malaysia", urging the adoption of Mandarin as one of the official languages, and noting that Bumiputra "special rights" had only benefited the Malay elite and done nothing for the rural poor.

Within the Alliance, the MCA was increasingly playing second-fiddle to UMNO, and when the 1967 National Language Bill was passed by parliament, much of the Chinese community become disenchanted with the MCA's capacity

to pursue and protect the interests of the Chinese. Even when Chinese associations and educationists proposed the establishment of a Chinese-medium tertiary institution -- Merdeka University -- in 1968, the MCA expressed opposition to the idea. It was such attitudes which led to its disastrous showing in the 1969 elections. The DAP and the People's Progressive Party (PPP) [55] also gained support from the disenchanted English-educated members of the MCA. By 1968, another opposition party -- Parti Gerakan Rakyat Malaysia (Gerakan) -- had been created and, led by Lim Chong Eu, it also adopted opposition to Bumiputra rights as one of its key policies.



Lim Chong Eu (L), 1969

Within UMNO, the Tunku was being increasingly seen as being too soft on the Chinese and this was perceived as costing the party support. By early 1969, the voices against him had grown vociferous.

The third Malaysian general election, held on 10 May 1969, was to reveal starkly the depths to which the communalization and ethnocentric rule of the country had led. The Alliance was returned to power, but with a reduced majority. Both the new Gerakan party and the DAP had campaigned against the Malay privileges provided by the Constitution and made major

gains, with the non-Malay opposition parties increasing their seats from eight to 25. While the Alliance won 66 out of 104 Parliamentary seats, the MCA was a major loser. The opposition won in a major way at state level, with the Alliance holding only 14 out of 24 seats in Selangor and 19 out of 40 in Perak. The Alliance lost power in Kelantan, Perak and Penang.

The violence which ensued on 13 May 1969, which is said by some contemporary commentators as having been planned and initiated by Deputy Prime Minister Tun Abdul Razak and Harun Idris, the Selangor Menteri Besar, resulted in hundreds dead, the Parliament suspended and a national emergency declared. A National Operations Council (NOC, which comprised 7 Malays, one Chinese and one Indian), led by Tun Abdul Razak took over Government. An obscene interpretation of the violence of 1969 that has persistently been used as one of the validations of the New Economic Policy was that it was that the violence was due to economic inequalities.



Aftermath of the violence of May 13, 1969

It was during this period of ongoing unrest that little-known UMNO backbencher Mahathir bin Mohamad -- who had lost his Parliamentary seat in the election -- publicly criticized the Tunku for having given *"the Chinese what they demand...you have given them too much face. The responsibility for the deaths of this people,*

Muslims and infidels, must be shouldered by [you]." Mahathir organized a campaign calling for the ouster of the Tunku and demanded imposition of an UMNO autocracy without an elected Parliament. Even for the UMNO elite, this was beyond the pale and, following more rioting in June, Mahathir and his colleague Musa Hitam were expelled from the party.

In an attempt to further consolidate the Malay ethnocracy, in addition to having two years to act at will, with no parliamentary oversight, the UMNO-led NOC put forward proposed making illegal (even among members of Parliament) discussion of the topic of abolition of those provisions of the Constitution dealing with Malay rights. When the parliament was eventually reconvened in 1971, the amended Sedition Act including these provisions was passed.

1970 Onwards -- The New Economic Policy

It was in 1970 that Tun Razak, head of the NOC, succeeded the Tunku as prime minister, and immediately began asserting even greater Malay dominance in the Alliance. The only post in his Cabinet held by a non-Malay was that of the MCA president Tan Siew Sin, who was appointed as Finance Minister. In 1972, Razak readmitted to the party Mahathir Mohamad, who in the interim had authored *The Malay Dilemma*, which claimed that "the Malay race" is the indigenous people of Malaysia, and that they had been subjugated in their own land by other races with the assistance of the British. Many of these claims by Dr Mahathir became standard rhetoric throughout Malaysia in later years when Mahathir became prime minister.

The New Economic Policy (NEP) was also announced as a key Malaysian Government policy in 1971. Its stated goal was to "eventually eradicate poverty... irrespective of race" through a "rapidly expanding economy." Further details of the policies pursued under this policy will be provided below when looking at the specific manifestations of ethnocracy in

Malaysia. Much of the rationale behind the NEP was reasonable and just, but this, like many other elements described below, has been hijacked over the last 35 years as a further vehicle in consolidating Malay ethnocracy.

A further tool used in this "ethnocratizing" of Malaysia has been dividing the non-Malay components of the Alliance, particularly those within the Barisan Nasional (or National Front, as the Alliance formally became in 1974, prior to the general election). Following the defection of Lim Keng Yaik from the MCA to Gerakan in 1973, Tun Razak took Gerakan into the Barisan, effectively dividing Chinese interests in the Barisan. He also took in the Sarawak National Party under its new leader Leo Moggie. Then through the gerrymandering which resulted from turning Kuala Lumpur into a Federal territory rather than a part of Selangor, he greatly damaged the DAP which had strong support among the urban population. These were all contributory factors in the Barisan winning 135 of 154 seats in the Parliamentary elections of 1974.

Hussein Onn (Prime Minister 1976-1981)

With the death on Tun Razak in 1976, the conservative and cautious Hussein Onn, son of the nationalist Onn Jaafar came to power. The ongoing insurgency by the Malayan Communist Party allowed Hussein to use various legal methods to curb dissent. The passing of the Societies (Amendment) Act 1981 "attempted to curb political comment by any society on government policies and activities unless it registered itself as a 'political society'." [56] His actions against the Bar also saw the Bar Council adopting a resolution accusing the Hussein Onn government of "the clear and unworthy intention of muzzling the Bar."

Control over the non-Malay parts of the Barisan increased under Hussein Onn. When the MCA, still weak after the 1969 debacle, joined with various groups within the Chinese community,

including DAP, to form a “Chinese Unity Movement” between 1971 and 1973 to pursue Chinese rights as a parallel concept to Bumiputra rights, it was eventually forced by UMNO to withdraw. Chinese interests were further damaged in 1978 by the Education Ministry’s rejection of the proposed Chinese-language Merdeka University

Hussein pursued further NEP targets through the Industrial Co-Ordination Act 1975, to extend the ethnic employment quota system, requiring manufacturing firms to employ Malays as 30 percent of their workforce. Foreign and non-Malay businesses were also required to divest 30 percent of their ownership to Malay shareholders. The Act eventually had to be amended due to domestic and foreign objections.

The 1978 election, called 18 months before they were due, saw the Barisan winning 130 seats of the total 154, with DAP gaining a further 8 seats to the 9 they had held previously. It was obvious that the DAP was at this time seen as the party which represented Chinese interests, despite its avowedly multi-ethnic charter.

In February 1981, Hussein Onn retired from office after a heart bypass.

Mahathir Mohamed (Prime Minister 1981-2003)

Prime Minister Mahathir is perhaps the best-known advocate of Malay rights and dominance. He built the economy and international stature of Malaysia over 20 years, side-stepping the efforts of Tengku Razaleigh Hamzah’s Team B to unseat him in 1987, overseeing mass arrests in Operation Lallang in the same year, dealing with a Barisan Alternatif and attracting global attention through sacking and vilifying the deputy premier Anwar Ibrahim, Mahathir probably did more than anyone else in Malaysia’s history to strengthen and enforce the divisions between Malaysia’s

ethnic groups. While producing a richer Malaysia, with the "privatisation of profits and socialisation of losses," he gave rise to a possibly eternally fractured society. It was his premiership which allowed the Deputy Prime Minister and then UMNO Youth Chief Najib Razak to threaten, during an UMNO Youth congress in 1987, to bathe a *keris* (dagger) with Chinese blood. It was during his period in office that anti-Chinese sentiments were encouraged and exacerbated, and it was during his period in power that most of the abuses of Malay ethnocracy noted below came to pass. His creation of a solely Malay capital at Putrajaya reflects excellently his attitudes to how he wanted this multi-ethnic nation to develop. There are sufficient good books on Mahathir’s period of rule to obviate the need here for even an overview of his period in power. [57] Various aspects of ethnocracy during the Mahathir years will be examined below.



Mahathir Mohamad (L) and Abdullah Badawi (R)

Abdullah Ahmad Badawi (Prime Minister 2003- 2009)

Mahathir's handover of power to Abdullah Ahmad Badawi in 2003 is something that the good doctor has apparently come to regret, but Abdullah did manage a landslide victory in 2004, almost re-capturing Kelantan which has been ruled by the Opposition PAS since 1990. This win was the biggest since Merdeka in 1957.

Under Abdullah, UMNO has seen various crises, most notably repeated attacks on the premier and the party by former Prime Minister Mahathir, repeated protests against the government, claiming corruption and racism, and a stunning defection of many voters away from the Barisan in the March 2008 elections. Ethnic divisions have been exacerbated with UMNO Youth Chief Hishammuddin Hussein (son of former Prime Minister Hussein Onn, and grandson of Onn Jaafar) brandishing a *keris* at the UMNO Annual General Meeting in 2005 while denigrating critics of Article 153 and the "social contract". The 2006 UMNO Annual General Assembly was also remarked upon as a "return to the atmosphere of the 1980s, when there was a 'strong anti-Chinese sentiment'". Several controversial statements were made at the assembly, such as "UMNO is willing to risk lives and bathe in blood to defend the race and religion. Don't play with fire. If they (non-Malays) mess with our rights, we will mess with theirs." These were certainly contributory elements to the massive flood of votes away from the Barisan parties in March 2008.

3. Manifestations of Ethnocracy in Malaysia

The above background is intended to provide a historical context for the growth of ethnocracy within the Malayan (and then Malaysian) polity over the last 50 years. It shows that there was no "natural" condition of Malay dominance and hegemony, but rather a process of very targeted human agency intended to create a structure where Malays dominate the political

and almost monopolize the administrative life of the country. The nature of this hegemony or ethnocracy will be examined in this second section of the paper. The avenues and measures by which ethnocracy is implemented will be discussed first.

a. Constitutional Provisions

There are a number of provisions under the Malaysian Constitution which mandate a special position for Malays. Article 160 defines a Malay as follows:

"Malay" means a person who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay custom and -
 (a) was before Merdeka Day born in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or is on that day domiciled in the Federation or in Singapore; or
 (b) is the issue of such a person;

The best-known of these Constitutional provisions is perhaps Article 153 which provides:

(1) It shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and natives of any of the States of Sabah and Sarawak and the legitimate interests of other communities in accordance with the provisions of this Article.

The Article then proceeds to list the various aspects of society (public service positions, scholarships, permits, licenses, etc) which the king may assign to the "the Malays and natives of any of the States of Sabah and Sarawak."

However, this provision was intended only as a transitional measure. The Reid Commission in 1956 saw the danger in one community in the country enjoying preferential treatment into the indefinite future. Although the Commission reported it did not find opposition to the continuance of the existing privileges for a

certain length of time, it stated that "*there was great opposition in some quarters to any increase of the present preferences and to their being continued for any prolonged period.*" The Commission recommended that the existing privileges should be continued as the "*Malays would be at a serious and unfair disadvantage compared with other communities if they were suddenly withdrawn.*" However, "*in due course the present preferences should be reduced and should ultimately cease.*" The Commission suggested that these provisions be revisited in 15 years, and that a report should be presented to the appropriate legislature. The "legislature should then determine either to retain or to reduce any quota or to discontinue it entirely."

Although Article 153 would have been up for review in 1972, fifteen years after Malaysia's independence in 1957, it remained unreviewed. In 1970, a Cabinet member declared that Malay special rights would remain for "hundreds of years to come," while in 2007 Deputy Prime Minister Najib Tun Razak said that there would be no time limit for the expiration of the "Malay Agenda".

b. Land Reservations

The earliest legislation on Malay reservation land seems to be the Selangor Land Code of 1891 introduced by the then Resident of Selangor, W.E. Maxwell, where land was reserved for the use of 'Mohameddans'.

Article 89 of the Federal Constitution provides for the continuance of Malay reservation land which existed before Merdeka and defines reserved land as follows:

"In this Article 'Malay Reservation' means land reserved for alienation to Malays or to natives of the state in which it lies: and 'Malay' includes any person who, under the law of the state in which he is resident, is treated as a Malay for

the purposes of the reservation of the land."

It is estimated that today approximately 4.5 million hectares of land are under Malay reservation, which usually precludes their use by other Malaysians. [58]

c. New Economic Policy

The New Economic Policy (NEP) is a socio-economic restructuring program launched by the Malaysian government in 1971 under Tun Abdul Razak. The NEP was renamed 1990 as the National Development Policy (NDP) in 1991, which appears to have been targeted at encouraging and grooming Malay entrepreneurs and business tycoons.. The NEP uses economic and administrative affirmative action policies to improve the participation of the Malays in the economy. It targeted a 30 per cent Malay share of the economy by 1990, which would have, it was anticipated, led to a "just society" Quotas in education and the civil service were expanded under the NEP, as was government intervention in the private sector. Specific measures include:

- Publicly-listed companies must set aside 30% of equity for Bumiputras and 30% of all shares in initial public offerings will be disbursed by the government to selected Bumiputras at substantial discounts.
- Virtually all real estate is sold to the Bumiputra discounted at rates ranging from 5% to 15%, and set percentages of new housing estates are set aside for Bumiputras.
- Companies submitting bids for government projects need to be Bumiputra-owned or at least have major participation by Bumiputras.
- A range of government-run (and

profit guaranteed) mutual funds called the Amanah Saham Nasional are available for purchase by Bumiputra buyers only. This provides return rates approximately 3 to 5 times that of local commercial banks.

- Approved Permits (APs) for automobiles preferentially allow Bumiputra to import vehicles.

While these measures have been instrumental in the creation of a Malay middle-class, there is great debate as to what percentage of equity Malays now own. The Government claims that the targeted 30 percent has not yet been reached, while a study by economists at ASLI suggested a figure of 45 percent, based on ownership of 1,000 publicly-listed companies. After government complaints, the claim was withdrawn and lead economist Lim Teck Ghee resigned in protest.

In a recent development, some UMNO members have called for the Malay equity target to be increased to 70%, in line with the “Malay Agenda”.

d. Education

As a component of the projects to expand Malay participation in the economy and society, a range of education agenda are being pursued. These include:

- Quotas on Malay acceptance into Universities. These were introduced under Mahathir. In 1998, then Education Minister Najib Razak stated that without quotas, only 5% of undergraduates in public universities would be Malays. Najib argued this justified the need for the continuance of quotas. In 2004, Dr. Shafie Salleh, the newly appointed Higher

Education Minister, stated that he “will ensure the quota of Malay students' entry into universities is always higher.”

- Simplified avenues and lower entry standards for Malay entry into University
- Access to scholarships for study domestically and abroad. Over 90% of government scholarships for studying abroad are awarded to Malays.
- Some public universities, such as Universiti Teknologi MARA admitting only Bumiputra students.
- Many organisations in Malaysia such as Bank Negara, Petronas, Telekom and Tenaga Nasional, provides overseas scholarships only or mainly to Malays.
- Preference to Malays in appointment as university lecturers. Malay appointments as university lecturers have increased from 30 percent to 95 percent.

e. The Position of Islam

The Malaysian Constitution defines Malays as Muslims, and it has been a major element in UMNO (and PAS) policy to invoke Islam in as many aspects of daily life as possible. Islam is also defined in the Constitution (Article 8 of Appendix 1, Article 8) as the official religion of the Federation. The Alliance’s memorandum to the Reid Commission during the drafting of the Constitution did not propose to include Islam as the official religion in the Constitution and neither was it suggested in the Draft Constitution. However, it was suggested by Abdul Hamid, the Pakistani representative in the Reid Commission, in his separate memo attached to the Draft Constitution. Subsequently, in the Working Party which deliberated on the Constitution, the UMNO elites successfully argued for its inclusion in

the Constitution. [59]

This role of Islam is manifested in various respects:

- There is, from various sources, full funding for mosques and other Islamic places of worship.
- It is official government policy to "infuse Islamic values" into the administration of the country.
- Government funds support an Islamic religious establishment.
- Muslim children receive extra education through enrichment programs funded through the Religious Affairs Department which receives the zakat tax from Muslims.
- Property developers must include a mosque or surau in every new development. No such provision for houses of worship of other religions. It is estimated that some 3000 mosques have been built throughout the country since 1970.

In September 2001, the then Prime Minister, Mahathir Mohamad declared that the country was an Islamic state (negara Islam). The opposition leader at the time, Lim Kit Siang, actively sought support to declare Mahathir's move as unconstitutional by repeatedly clarifying that Malaysia is a secular state with Islam as its official religion as enshrined in the Constitution.

f. Public service and administration

Over the last 20 years, there have been efforts to almost completely replace non-Malay civil servants with Malays. In the 1950s, the Reid Commission reported the practice of *"not more than one-quarter of new entrants [to a particular service] should be non-Malays."*

However, over the last 40 years, this has been effectively disregarded and since 1969, well over 90% of new employees of the various government departments have been Malay. This is particularly so of the police and armed forces, where the figure exceeds 96%. Such hiring practices are also pursued in government-linked or owned companies such as Petronas, Tenaga Nasional and so on.

From the official website of the Ministry of Foreign Affairs at Wisma Putra, [60] one is able to ascertain the ethnicity of officials assigned to foreign missions by the Malaysian government. Through a survey of 100 Malaysian overseas missions listed on this website, one finds that diplomatic staff (including military attaches and a few Malaysian Tourism Promotion Board staff had an ethnic breakdown as follows:

Malay: 654 (91.7%) Other: 59 (8.3%) Total 713 (100%)

The Malaysian government has 28 federal ministries. If one examines, for example, the staff of the Ministry of Culture, Arts and Heritage (Kementerian Kebudayaan, Kesenian dan Warisan) as provided on the Malaysian Government official portal website, [61] one arrives with the following figures for officers (pegawai);

Malay: 351 (96%) Other: 14 (4%) Total: 365 (100%)

The Minister of Defence (Kementerian Pertahanan) administration officers website [62] details staff of the Ministry (excluding armed forces staff). Of the 692 persons listed, 670 or 96.8 percent of the total are Malay.

The Malay-ization of the entire public service and defence forces was apparently the aim of the Mahathir government, as complete control over the public administration is an important aspect in achieving and maintaining Malay ethnocracy.

Mahathir went further than this. He strove to create a completely Malay capital, by moving government departments to the administrative capital at Putrajaya, where today only civil servants (Malay) and their servicing economic partners (mainly Malay) live and work. It is today an essentially Malay city.

4. Effects of Ethnocratic Administration in Malaysia

a. Subordination of the Interests of other Ethnic Groups

The 50-year dominance of UMNO as supreme power in Malaysia has seen it pursue policies aimed at empowering the Malays and creating an ethnocracy where Malay interests are prime. This has, by definition meant that the interests of other ethnic groups in the country have had to be subordinated. This is manifested in an almost infinite variety of forms—politically, economically, culturally, and socially, some of which are detailed in other areas of this paper. Even at national level, UMNO's dominance has relegated other ruling coalition parties representing minority interests to insignificance, fuelling discontent over ethnic, religious and economic marginalisation. Here we need only examine the recent HINDRAF events to see how this subordination is manifested.

The Indian community in Malaysia constitutes perhaps 8 percent of the population and has long been associated with some of the most menial economic positions in the country—plantation workers, labourers and street-sweepers. The changes in the plantation industry have seen some of these persons forced into urban slums where they are precluded from decent housing, education or opportunity. Their interests are supposedly represented at national level by the Malaysian Indian Congress, a component party of the Barisan, but it is more than apparent that the national MIC has been less than competent in representing the interests of Indians of the

lower socioeconomic strata. As powerless squatters, they are often easy prey for those who wish to oppress or exploit them.

The situation came to boiling point in 2007, when the Hindu Rights Action Force, a coalition of 30 Hindu non-governmental organizations committed to the preservation of Hindu community rights and heritage, began to protest about the tearing down of Hindu temples by local government agents. Some HINDRAF members were arrested under the Sedition Act but later released for lack of evidence. In August 2007, a class action on behalf of Malaysian Indians was filed at The Royal Courts of Justice in London to sue the UK Government for US\$4 trillion for bringing Indians as indentured laborers into Malaya, "exploiting them for 150 years" and thereafter failing to protect the minority Indians' rights in the Federal Constitution when independence was granted. [Unable to afford to pursue the claims, a petition was circulated in Malaysia, and on 25 November 2007, HINDRAF organised a rally to present it to the British High Commission in Kuala Lumpur. In one of the largest protests against ethnocracy seen in the country, more than 10,000 people participated in the protests which were subject to tear gas and water cannons. Five of the leaders have been detained indefinitely under the Internal Security Act.

According to the Centre for Public Policy Studies, Indians have the lowest life expectancy amongst the major ethnic groups; according to Hindraf, Indians have the highest suicide rate amongst the major ethnic groups; while according to government statistics, Indians make up 40% of convicted criminals. But this community is excluded from the many advantages available to those the government claims are the marginalized Malays.

b. Religious Autocracy

Establishing Islam as the "official religion" of the state and ensuring that the government

departments and agencies are run by Muslims has had major social repercussions throughout the country. These range from complaints from followers of other religions that they are unable to obtain permission or land to erect houses of worship, to the targeting and destruction of temples. From 2002-2007, 15 Hindu temples were demolished in the Klang Valley by state contractors or agents, and 31 others have been threatened with demolition. The construction of a 36 metre-high Chinese "Goddess of the Sea" statue has also been suspended by the state government in the north Borneo state of Sabah. At the level of the individual, persons have been precluded from having the religion of their choice noted on their identification cards (the Lina Joy case), and non-Malay parents have complained about powerful Islamization trends within the schools their children attend. The same trend is manifested in Kelantan where imams are offered \$10,000, a Range Rover, free accommodation and other perks if they agree to marry (and thereby convert) an orang asli woman.

c. Educational Woes

The policies which have been implemented in the educational realm over the last 20 years have produced much anger both over the discrimination practised against non-Malay students and the huge declines in educational quality at both secondary and tertiary levels as a result of staffing schools and universities with essentially members of only one ethnic group.

- Regardless of the quality of results of school examinations, non-Malays will be generally ranked behind Malays
- Non-Malays are often precluded from scholarship allocation.
- Non-Malays are virtually precluded from teaching positions at the tertiary level. On the University of Malaya's "Expert Page" which details the

researchers and thereby essentially the academic staff of the University, [63] of 1240 persons listed, only 20 Chinese names are included, 8 of whom also have Islamic names, as well as 46 Indian names (both Tamil and Northern), and 30 names which are obviously foreign or otherwise cannot be classified. Thus, of the 1240 UM academic researchers listed on the University's website, less than 100 are, under the ethnic divisions as used in Malaysia, "non-Malay".

- There can be no political activity on Universities. Section 15 of Malaysia's Universities and University Colleges Act states that no student shall be a member of or in any manner associate with any society, political party, trade union or any other organisation, body or group of people whatsoever, be it in or outside Malaysia, unless it is approved in advance and in writing by the vice-chancellor.
- Schools are run with Islamic religious aspects throughout giving parents the feeling that non-Muslim children do not exist or do not matter.
- The cavalier attitude to education demonstrated through such schemes and policies has resulted in very marked reductions in the quality of Malaysian education. As a single example, the General Medical Council of Great Britain withdrew recognition of University of Malaya medical degrees because of the decline in the standards of medical education at the University.
- There has also been a freefall in the gradings of Malaysian universities in the international

assessment exercises for tertiary institutions. The University of Malaya fell from 89th in 2004 to 192nd in 2006 and now has fallen out of the top 200 list.

d. Judicial Problems

There has been a gradual process of replacement over the last 50 years of the ethnically diverse judiciary with a majority of Malays. Today, the Chief Justice of the Federal Court, the President of the Court of Appeal, and the Chief Judge of the High Court are all Malay. The Chief Judge for Sabah and Sarawak Richard Malanjum is a KadazanDusun from Sabah. Five of the six judges of the Federal Court are Malay. When the incumbents of any position—public or private are appointed from a restricted pool, quality will by definition suffer.

In addition to the limiting of the ethnic pool from which judges are drawn, UMNO has also dramatically politicized the judiciary. UMNO has long been inured to both amending the Constitution and amending judges when they do not act as required. A key replacement was Mahathir's sacking of the Lord President, Tun Salleh Abas and replacement by the more pliant Tun Hamid Omar, a schoolmate of Mahathir and Daim Zainuddin, during the 1988 Constitutional crisis. The appointment of Tun Hamid Omar triggered the collapse of the integrity and the independence of the judiciary.

More recent events, such as the Lingam video case show that the Malaysian judiciary today commands almost no respect. Many foreign companies investing in Malaysia now demand that disputes between the contracting partners be head in courts, or by adjudicators, outside Malaysia, because of the country's tainted judiciary. Claims that Malaysian judges demand percentages from damages awarded in court cannot be confirmed.

Daim Zainuddin, the country's former finance minister, is reported to have noted that judges in Malaysia were a bunch of idiots. "Of course we want them to be biased", he noted, "but not that biased." The affiliation of the tainted judiciary with the process of establishing Malay ethnocracy is intimate

e. Police

The ethnic unification of the police force has resulted in enormous attitudinal changes to the force among the population, and particularly among non-Malays. From the obvious increase in payments to police officers to avoid prosecution, to faked witness statements, and from increased deaths in police custody to assault on the deputy prime minister by the commissioner of police, there has been a widespread lack of confidence in the police. Most non-Malays will today not approach a police officer or a police station unless under duress.

The Royal Malaysian Police have quite naturally objected to the creation of an Independent Police Complaints and Misconduct Commission, despite a royal commission's main recommendation that it be established. Again, having only one ethnic group comprise the police force provides a greater platform for corruption and abuse than would be the case with a multi-ethnic force.

f. Corruption

The disillusionment with the police force is but a small fraction of the public's dismay over corruption and abuse of power in the major institutions of government. The corruption and nepotism which marked the latter years of the Mahathir reign appear to have established new levels for these activities. When Finance Minister Daim persuaded Mahathir to give the Economic Planning Unit and Treasury full power in implementing the privatisation policy, it became no longer necessary to call for tenders for government projects. Instead, the

projects were awarded directly to favoured companies. Thus were opened many doors for potential corruption. But this was true at every level of a society where economic interests were being restructured, where licenses were being awarded, where commissions became par for the course, and where ethnicity was itself a valuable asset.

In a single example, in 1983 Rais Saniman was one of four Bumiputra Malaysia Finance (BMF) Limited officials who, together with George Tan of the Carrian Group, were convicted for conspiracy to defraud BMF in what was then the biggest financial scandal to rock the country and which cost the Government an estimated M\$2.5 billion in lost monies. The Perwaja Steel debacle, Bank Islam losses, and defence procurement scandals all involved aspects which have been classified as “corruption”. These are but a few of the cases which have been brought to public attention. Many have not.

There is no real need to continue discussing here the potential or disadvantages of corruption but it can be stated categorically that having one ethnic group controlling permissions and allocations of government contracts contributes hugely to the potentials for and severity of corrupt acts.

g. Migration and Citizenship Issues

Migration and citizenship issues have been at the heart of Malay ethnocracy for 50 years. Under the 1948 Federation of Malaya Constitution, sultans were given control over migration and issues of citizenship engaged all the non-Malay inhabitants of the peninsula.

Today, as Malay ethnocracy is pursued, efforts are being made to ensure that the ratio of non-Malay peoples in the population continues to fall. The Chinese percentage of the population has declined from 45% in 1957 to 26% today. How is this being achieved?

- Firstly, by making life difficult and opportunities few for the non-Malays. This is a great inducement to migration for those who have the financial capacity. According to Abdul Rahman Ibrahim, the home ministry's parliamentary secretary, some 14,316 Chinese surrendered their citizenship on migration between 2000 and 2006, compared to 1,098 Malays, 822 Indians, and 238 others.

- Secondly, by encouraging in-migration of Muslims from Indonesia and the southern Philippines. These persons can immediately become “bumiputra” and enjoy the benefits of such status in Malaysia. Statistics on such in-migration are not made public. Ethnic statistics are some of the most closely guarded secrets in the Malaysian statistical firmament, and one has no idea how the statistics are compiled or adjusted. As such, the published figures must be considered with some caution.

5. Modes Employed in Validating Malay Ethnocracy

a. Indigeneity of Malays

Malay rule was validated by the British in 1947, as Malay ethnocracy is validated by the Malaysian state today, on the premise on the indigeneity of the Malays in the peninsula. How valid is this claim?

The original inhabitants of the peninsula appear to have been the people generically referred to today as “orang asli.” These speakers of Austroasiatic (Aslian) languages number somewhere in the region of 100,000 persons, usually live in rural or jungle settings, are often poverty-stricken, and are generally

not Muslims. The Federal Constitution does not consider the Orang Asli as bumiputera

The earliest evidence we have for outsiders arriving in the peninsula are the persons who left the Sanskrit inscriptions when visiting or residing in what is today Kedah from the fourth century CE. The earliest evidence of any Malay inhabitants or visitors to the peninsula is the Terengganu Stone of the 14th century, an inscription written in the Malay language in Jawi script which suggests some sort of missionary activity. The first evidence of any known Malay figure arriving in the peninsula is the entourage of Parameswara when he fled from Palembang to the Peninsula in the late 14th century. It appears that it was from this period that Malay colonization began in earnest. Most of the "Malay" inhabitants of the peninsula today can trace an ancestor from beyond the peninsula within three generations. Let us examine a few prominent Malays of today and observe their ethnic origins within the last two or three generations

- Dato' Syed Ja'afar Albar -- Hadhrami Arab who came to Malaya from Java pre-war. His son, Syed Hamid Albar now Home Minister
- Khir Toyo, former menteri besar of Selangor -- Javanese
- Mahathir Mohamed -- Grandfather was from south India
- Abdullah Badawi -- Mother is Cham descendant from Hainan.
- Tunku Abdul Rahman -- half Thai.
- Onn Jaafar -- Turkish background, shared with Ungku Aziz and Syed Hussein Alatas
- Hussein Onn, Hishammuddin Hussein -- ditto
- Khairy Jamaluddin -- Javanese
- Puteh Maria, first head of Wanita UMNO -- Tamil Muslim from Sri Lanka

- Najib Razak -- Bugis descent

Such a list can be continued almost ad infinitum. Large areas of Johor are populated by descendants of Javanese who moved to the peninsula in the 20th century. Most western coastal states have large populations of persons who still identify themselves as Minang, Rawa and Mairindaling. If persons from all these places are to be considered "Malay" then the idea of Malay indigeneity has no meaning, and certainly cannot be used to exclude from social participation persons whose ancestors came from other areas. It should be noted in passing it has usually been recent arrivals who have been the main defenders of the idea of Malay indigeneity. Syed Ja'afar Albar, newly arrived from Java, was adamant that the Chinese were *kaum pendatang or pendatang asing* (immigrants) or lodgers (*orang tumpangan*).

In a recent blog, Marina Mahathir wrote:

"I'd like to ask everyone, especially those categorised as 'Malays', to list their family histories. And see how many of us can really go back further than three generations born in this land. I know I can't." [64]

b. Supremacy of Malays

UMNO sees itself as the "protector and champion of *ketuanan Melayu*" (Malay supremacy), which has within it the idea that that Malays are the rulers of Malaysia or "masters of this land", as stated by former UMNO Youth Information Chief Azimi Daim in 2003. The UMNO Youth wing in particular is known for what some call radical and extremist defense of *ketuanan Melayu*. But it not solely the youthful ultras who express such thoughts. In early 2008, Tengku Faris Petra, the Kelantan Crown Prince, while delivering a keynote speech at a forum titled "Malay unity is the core of national unity", declared that as the Malays had agreed in granting non-Malays citizenship, the latter should therefore not seek

equality or special treatment. The supremacy of the Malays was implicit in this statement.

c. The Sultans

The Sultans of the various states are seen as or at least portrayed as symbols of Malayness, and therefore indigeneity and legitimacy. It is they who signed the Merdeka and Constitutional agreements with the British and therefore underwrite the right of Malay ethnocracy.

Yet, if we examine the history of the respective royal houses, we observe again migrants to the peninsula within the last few hundred years. None of the royal houses of Malaysia can trace their lines of descent back to the Malaccan ruling house.

We need only take a few examples to demonstrate what is being suggested.

Selangor

Raja Lumu who became Sultan Sallehuddin of Selangor (1742 - 1780) was the son of Daeng Cellak, second Yamtuan Muda of Riau (1728-1745) who in turn was son of Daeng Rilaka of Sulawesi. He can thus be considered a Bugis, 2000 kilometres from home.

Johor

The Johor sultans trace their origins to 'Aidarus of Aceh, a Sayyid from the Hadramaut in Southern Arabia. And to Bugis ancestors.

Kelantan

In 1760, a certain Kubang Labu succeeded in unifying the disparate territories into a single state, but was overthrown four years later. Long Muhammad, younger son of Long Yunus, declared himself Sultan in 1800.

Negri Sembilan

The first sultan of Negri Sembilan was a Minangkabau person appointed by the Johor

sultan in the early 18th century.

We thus see that many of the Malaysian royal families are of fairly recent origin and in many cases, derived from recent immigrants. It is very difficult to validate ethnocracy through sultanates of this nature.

d. Claims of a "social contract"

The term "social contract": was first used in the Malaysian context by Abdullah Ahmad, an UMNO MP at the time, in 1986. He noted:

"The political system of Malay dominance was born out of the sacrosanct social contract which preceded national independence. Let us never forget that in the Malaysian political system the Malay position must be preserved and that Malay expectations must be met. There have been moves to question, to set aside and to violate this contract, that have threatened the stability of the system."

When one examines the process by which the Malays were literally handed power by the British, with the other communities protesting noisily about the lack of consultation with them, this reference to a 'social contract' appears to lack any historical basis. However, since 1986, the term "social contract" has become a part of the vocabulary of various political players, often with the meaning of a social contract entered into at Merdeka whereby the Indians and Chinese were provided with citizenship in exchange for the Malays being able to enjoy special rights or *ketuanan Melayu*. The fiction within these claims can be demonstrated by any reading of Malaysian history of the 1940s and 1950s.

6. Measures Used to Maintain Malay Ethnocracy

Given the often specious claims made to validate the aspirations to special status, indigeneity and other aspects of the Malay Agenda, how has UMNO gone about maintaining the claims and avoiding or quashing opposition to them?

a. Legislation

One of the key methods of quashing those who wish to question or argue against the special privileges enjoyed under Malay ethnocracy is to legislate. Article 10.4 of the Constitution allows Parliament to prohibit the questioning of any “matter, right, position, privilege, sovereignty or prerogative”, including of course Article 153 of the Constitution.

(10.4) In imposing restrictions in the interest of the security of the Federation or any part thereof or public order under Clause (2) (a), Parliament may pass law prohibiting the questioning of any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the provisions of Part III, article 152, 153 or 181 otherwise than in relation to the implementation thereof as may be specified in such law.

The **Internal Security Act**, which effectively allows the government to detain anyone it sees as a threat to national security for an indefinite period, provides another excellent tool for stifling dissent on any matter. In 1987 under Operation Lalang, several leaders of the DAP, including Lim Kit Siang and Karpal Singh, were held under the ISA. It is widely believed this was due to their calling for the NEP and other Malay privileges to be reviewed. Today, various of the HINDRAF leaders are being held under ISA for their calls for a more just social structure

The **Sedition Act** was passed in 1971 and this also provides draconian punishments for actions which the state (a.k.a UMNO) considers, or at least depicts, as being seditious. This includes questioning Malay rights.

In 1975, to stem student dissent of government policies, amendments were made to the **Universities and University Colleges Act (UUCA)** which banned students from expressing support of or holding positions in any political party or trade union without written consent from the university's Vice Chancellor. The new Act also banned political demonstrations from being held on university campuses.

And to stop dangerous ideas being spread too widely, the **Printing Presses and Publications Act 1984** is a piece of legislation that requires all print media in the country to obtain a licence and abide by its strict regulations. The license or permit must be renewed annually. The Act has evolved out of the Printing Ordinance of 1948, introduced by the British. The powers are vested in the Home Affairs Minister who can grant or deny any permit. The minister can also restrict or ban outright publications that are likely to endanger national security interest or create social unrest.

b. Failure to ratify UN conventions

Malaysia has failed to ratify a range of international covenants and conventions, which have been signed by the majority of UN members. These include:

- the International Covenant on Economic, Social and Cultural Rights (CESCR), which is monitored by the Committee on Economic, Social and Cultural Rights;
- the International Covenant on

- Civil and Political Rights (CCPR), which is monitored by the Human Rights Committee;
- the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), which is monitored by the Committee on the Elimination of Racial Discrimination;
- the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which is monitored by the Committee against Torture;
- the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC). [65]

The signing of these conventions would mean that Malaysia's domestic social and particularly ethnic policies would be subject to much greater attention and supervision from around the globe. Various of the policies of ethnic discrimination as practiced in Malaysia would be illegal under the CERD. Failure to sign the conventions costs them only minor reputation.

c. Electoral control

Parliamentary democracy is premised on elections and if UMNO is to continue to win elections and maintain its ethnocracy, there is a need to have methods by which to, if not ensure, at least encourage, this outcome. The most effective weapon in the arsenal is control of the Election Commission. The Election Commission (EC) is seen as one of the primary instruments through which the BN has manipulated the election process for its own political gain. The Government appoints all members of the EC, and all recommendations made by the EC must pass through the Government in order to take effect. The BN has been able to hastily push through delimitation proposals whereby seat boundaries are

changed, without serious debate in Parliament. The EC proposal to use indelible ink to mark the hands of voters in the March 2008 election was withdrawn following UMNO opposition.

The EC is also the main vector through another key weapon -the gerrymander—is implemented. Gerrymandering is the drawing of constituency boundaries for partisan advantage. This can be observed in Malaysian electorates where generally rural voters (predominantly Malay) have a higher vote value. The average number of voters per seat in the Malay dominant state of Perlis is about 40,000, while in Chinese-dominated Selangor it is 71,000, [66] giving the Perlis voters almost twice the value for their vote. The original 1957 Constitution contained a provision limiting the size discrepancy between any two districts to no more than 15%. This restriction, however, was eliminated by constitutional amendments in 1962 and 1973.

The Barisan Nasional also relies during elections on government resources such as personnel, funds and facilities to aid their election campaigns. They also control the media which disseminate electoral news.

d. Control of media

When trying to convince the populace of particular views or preventing uncomfortable news being disseminated, control of the media is a boon. UMNO controls Bernama, the state newsagency, six state-owned radio stations and two television stations under national broadcaster Radio Television Malaysia, the Utusan Group and is also closely allied to media conglomerate Media Prima Bhd.

The MCA, through its investment arm Huaren, owns Star Publications, which owns the English newspaper, "The Star", various magazines, and radio stations FM 988 and Red FM. It now holds a 20 percent stake in Nanyang Press, which publishes Chinese newspapers "Nanyang Siang Pau" and "China Press".

The ruling Indian party, MIC, has close affiliations with owners of major Tamil newspapers "Tamil Nesan" and "Malaysian Nanban".

Thus, rather than having to shut down newspapers as Dr Mahathir did in 1987, the newspapers now do not need to be shut down as they print no stories which reflect poorly on the government.

e. History Writing

When trying to ensure that the populace is sympathetic to a particular point of view, starting inculcation young is a useful tactic. In various ways, UMNO is using school history textbooks to push its view of Malayan and Malaysian history. There has been a gradual process of ethnic cleansing in Malaysian history books over the last 25 years. A anonymous textbook entitled *Sejarah Menengah Malaysia*, (Tingkatan Tiga), published by Dewan Bahasa dan Pustaka in under the Ministry of Education in 1971 had much space devoted to the British role in Malayan history, and included a chapter on the Chinese in the peninsula until 1874. By 1998, a textbook entitled *Kurikulum Bersepadu Sekolah Menengah Sejarah Tingkatan 1*, also published by Dewan Bahasa dan Pustaka and compiled by Dato' Dr Abdul Shukor bin Abdullah and his 17 Malay collaborators, depicts a peninsula whose history begins with the Melaka Sultanate, when it appears that the population of Malaya was entirely Malay, and continues on into the Johor period of Malayan history. The cultural aspects are entirely Malay and it is as if half the country has disappeared. A 2003 textbook entitled *Kurikulum Bersepadu Sekolah Menengah Sejarah Tingkatan 5*, published by Dewan Bahasa dan Pustaka and compiled by Ramlah bte Adam and her 7 Malay collaborators, concentrates on finding Malay national heroes, almost one for each state. It portrays immigration as something which only happened in the 19th century and only involved people from India and China. The 1930s is

written of only through vignettes of Malay figures, while the Malayan Union and Federation depicted as though only Malays and the British existed. One Chinese and two Tamil persons are pictured, with the remainder being

The state/UMNO-endorsed and sponsored textbooks are increasingly depicting the history of Malaya's past as almost solely a Malay history and are gradually excising the roles of Chinese and Indian figures from national history.

f. Threats

And when legislation, distorted history and electoral and media controls fail to convince others of the necessity and validity of Malay ethnocracy, there are always threats of violence available.

At the 2005 UMNO annual meeting, Hishammuddin Hussein brandished the traditional Malay dagger, the *keris*, while warning the non-Malays not to attack or question Malay rights and "ketuanan Melayu." His action was applauded by the UMNO delegates. Again in 2006, when Hishammuddin again brandished the *keris* at the assembly, Hashim Suboh asked Hishammuddin when he would "use" the *keris*.



Hishammuddin Hussein with kris at UMNO conclave

7. Opponents of Ethnocracy

The Non-Malay communities had in general been opposed to their disenfranchisement as full citizens since the reversals of 1946. While the line of argument in this paper may suggest that all of UMNO and all Malays support and endorse the ethnocracy now being practiced in Malaysia, this is far from being the case. There are opponents of the various systems and practices among all communities at all levels.

The organizers of Bersih -- Gabungan Pilihanraya Bersih dan Adil / Coalition for Clean and Fair Elections -- engage with one aspect of the abuses, while the HINDRAF organisers more specifically target the ethnocratic structures under which the non-Malay communities they have been discriminated against.



HINDRAF demonstration, Kuala Lumpur, 2007

There has been increasing attention paid by foreigners to the effects of ethnocratic policies in Malaysia. European Union ambassador to Malaysia, Thierry Rommel criticising Malaysia's New Economic Policy (NEP) as being detrimental to the country. He suggested that Malaysia's attractiveness to foreign investors had weakened as a result of the affirmative action policies for the Malays. "Protectionism in public procurement is rising. That protectionism is expanding and the scope

for competition and efficiency is narrowing ... Malaysia is marginalising itself," he told reporters.

But most importantly, the voters of Malaysia are expressing their views through the ballot box. In the March 2008 Elections, the Barisan Nasional were roundly chastised for many aspects, resulting in the loss of 58 seats and its two-thirds majority in parliament.

	BN	Pakatan Rakyat
Seats won	140	82
Seat change	-58	+62
Popular vote	4,082,411	3,796,464
Percentage	50.6%	49.4%

Leaders in Penang, which now has a non-Barisan government, have announced that it will not be following Bumiputera policies in state sector employment, while Anwar Ibrahim has declared his opposition to aspects of Malay ethnocracy and is busily preparing himself to serve as head of a Pakatan Rakyat which will possibly unseat the long-standing BN coalition and form a new federal government. How any such coalition will in fact act when in power remains a great unknown.



Street protests, Kuala Lumpur, 2007

8. Ethnocracy as Apartheid

I have characterized the ethnocratic policies pursued by the UMNO-led coalition over the last close to 50 years as “apartheid”. Some explanation of this is in order. The term, meaning separation or separateness, is from Afrikaans, and it was used in South Africa to refer to the policies of the Afrikaner National Party government between 1948 and 1990. The Apartheid regime classified people into racial groups and then implemented differentiated policies towards these various groups. These policies affected where people lived, the quality of education people received, what activities people could engage in and their opportunities for the future. In many ways, Malaysian ethnocracy, through the effective disenfranchisement of non-Malay peoples and restricted opportunities in commerce, education, and employment through their exclusion from the mainstream reflects some aspects of the South African Apartheid system. Like the Apartheid system, Malaysia’s ethnocracy vindicates a hierarchy of rights along ethnic lines.

9. Malaysia and Israel

Can one then pursue a democracy where citizens are supposedly equal in their rights, and yet at the same time constitutionally

mandate the special position of a certain group within that country. In this respect, the Malaysian state as created by UMNO shares a problem with Israel.

Israel has no Constitution, despite formally committed to the adoption of a written Constitution since 1948.. Many of the more orthodox Jews hold that the only real constitution for a Jewish state is the Torah and the Jewish law (*halakhah*) that flows from it. They not only see no need for a modern secular constitution. But there is a Declaration of Independence which sets down aspects of the state.

“The Declaration of Independence determined that the State of Israel will be open for Jewish immigration and for the Ingathering of the Exiles; it will foster the development of the country for the benefit of all its inhabitants; it will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; and it will safeguard the Holy Places of all religions.”

However, in the country’s **Basic Law: Human Dignity and Liberty**, [67] there is no provision on equality of freedom of religion. Rather it notes in Article 1: “The purpose of this Basic Law is to protect human dignity and liberty, in order to establish in a Basic Law the values of the State of Israel as a **Jewish and democratic** state.”

Here then we have the conundrum faced. Israel wants to develop a modern democratic state, one which gives a specially-mandated place to Jewish people, but at the same time, treats all citizens fairly as equals. As the Malaysian ethnocracy demonstrates, the contradictions of such an arrangement will always raise their heads.

A religion or ethnicity which is detailed in a basic legal document as an essential element of the state necessarily makes believers in other religions, or persons of other ethnic groups, second-rate citizens, and precludes an equality of citizenship.

Conclusion

Article 8 of the Malaysian Constitution (clause 2) states: 'Except as expressly authorised by this Constitution, there shall be no discrimination against citizens on the ground only of religion, race, descent or place of birth in any law or in the appointment to any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or the establishing or carrying on of any trade, business, profession, vocation or employment.'

However, through other Articles, all these discriminations are actually mandated by the Malaysian Constitution, and UMNO has used these provision to consolidate Malay power through control of all state institutions.

The ethnocracy which has been slowly developed in Malaysia particularly since 1957 has excluded from full participation in the country the non-Malay peoples of the land. Through economic and social policies, non-Malay people have been deprived of education, employment, political and other opportunities as a cost of the development and consolidation of Malay supremacy and the economic aspects of the NEP.

The question of how the power of UMNO is to be called to account and how the increasing fragmentation of Malaysian society is to be reversed may already have begun to be answered by the March 2008 election. In any case, in any major re-examination or reconsideration of the various privileging policies and ethnocratic structures which have been created in Malaysia, an essential element needs to be a recognition that these structures

have as their root the British-UMNO alliance of 1946-57, which pursued the interests of these two groups, and excluded from fair participation in the political process the non-elite and non-Malay members of society.

Geoff Wade is a Senior Research Fellow at the Institute of Southeast Asian Studies, Singapore and the editor of the six volume work [China and Southeast Asia](#). An earlier version of this paper was Asia Research Institute Working Paper Series No. 112.

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Notes

- [1] Joint Colonial Office-Foreign Office memo on post-war settlement in the Far East: need for definite policy" (CO 825/35/4 No. 52) (August 1942) in A. J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 23.
- [2] CO 825/35/4 No. 52, Stockwell, *Malaya*, Part I, p. 24.
- [3] CO 825/35/4 No. 52, Stockwell, *Malaya*, Part I, p. 24-5.
- [4] CO 877/25/7/27265/7 No. 1 (4 Dec 1942) Stockwell Document 11, Vol. 1, p. 42.
- [5] CO 877/25/7/27265/7 No. 1 (4 Dec 1942) Stockwell Document 11, Vol. 1, p. 43.
- [6] A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, pp 47-48. 48.
- [7] A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 49.
- [8] A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 48.
- [9] CO 825/35/6 No. 4 (14 May 1943), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London

HMSO, 1995, Part I, pp. 50-51.

[10] CO 825/35/6 No. 4 (14 May 1943), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 51.

[11] Hone memo on post-war constitutional arrangements for mainland of Malaya: CO 825/35/6 No. 14 (28 July 1943), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 55.

[12] Mr Stanley of Colonial Office to War Cabinet Committee on Malaya and Borneo, CAB 98/41 CMB (44) 3 (14 Jan 1944), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 68.

[13] Policy in Regard to Malaya and Borneo: War Cabinet memorandum to Mr Atlee. Appendices: I Draft Directive on policy in Malaya' and II 'Draft Directive on policy -Borneo', CAB 66/50, WP (44) 258, A.J. Stockwell (ed.), *Malaya* (3 parts), *British Documents on the End of Empire*

[14] Letter from Admiral Mountbatten Supreme Allied Commander to Maj. Gen Hone, 4 Feb 1944, "Letter on publicity for post-war policy", A.J. Stockwell (ed.), *Malaya* (3 parts), *British Documents on the End of Empire*, London HMSO, 1995, Part I, p. 72.

[15] Mountbatten to Stanley, CO 825/42/3 No. 25 (29 July 1944), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 83.

[16] Stanley to Mountbatten CO 825/42/3 No. 27 (21 Aug 1944), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 84.

[17] Mountbatten to Stanley CO 825/42/3 No. 28 (6 Sept 1944), A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 86.

[18] Cabinet meeting CAB 128/1 CM 27 (45)3 (3 Sept 1945) Conclusions authorizing the MacMichael Mission, A.J. Stockwell (ed.), *Malaya* (3 parts), British Documents on the End of Empire, London HMSO, 1995, Part I, p. 122.

[19] A1838 413/2/1/4 Part 1 BTSEA [British Territories in South East Asia]- Malayan Constitutional Reforms (National Australian Archives).

[20] Cheah Boon Kheng, *Malaysia: The Making of a Nation*, Singapore, ISEAS, 2002, p.

[21] Albert Lau, *The Malayan Union Experiment*, Kuala Lumpur, Oxford University Press,

[22] Australian Commissioner in Singapore C. Massey to H.V. Evatt, Minister of State for External Affairs, Canberra, 24 December 1946. A1838 413/2/1/4 Part 1 : BTSEA [British Territories in South East Asia]- Malayan Constitutional Reforms.

[23] *Parti Kebangsaan Melayu Malaya* (PKMM), which was a Leftist party opposed to UMNO and also opposed to continuing the role of sultans.

[24] The 1947 census showed a total population of Malaya including Singapore of 5.8 million. Chinese numbered 2.6 million and Malays 2.4 million. This was the first time the Chinese outnumbered the Malays. See Minute of 17 August 1948 NAA A1838 410/1/1 Part 1 : BTSEA [British Territories in South East Asia]- General Information.

[25] Tarling, *Britain, Southeast Asia and the Onset of the Cold War*, p. 187.

[26] Tarling, *Britain, Southeast Asia and the Onset of the Cold War*, p. 188.

[27] *Straits Times*, 10 January 1947.

[28] Still a legal party at this time.

[29] *Straits Budget*, 13 February 1947.

[30] *Straits Times*, 16 January 1947.

[31] Original copy contained within Now reprinted as: PUTERA-AMCJA, *The People's Constitutional Proposals For Malaya 1947*, Kuala Lumpur: Ban Ah Kam, 2005.

[32] *Malaya Tribune*, 31 March 1947.

[33] W Garrett, Official Secretary, Office of the High Commissioner for the United Kingdom, Canberra to Prime Minister's Department, Canberra 5 May 1947: NAA A1838 413/2/1/4 Part 1, BTSEA - Malayan Constitutional Reforms.

[34] Australian Commissioner in Singapore C.

Massey to H.V. Evatt, Minister of State for External Affairs, Canberra, 9 May 1947. A1838 413/2/1/4 Part 1 : BTSEA [British Territories in South East Asia]- Malayan Constitutional Reforms.

[35] The Constitution proposal noted: “The word ‘Malay’ here means a person who: i) habitually speaks the Malay language; and ii) professes the Muslim religion; and iii) conforms to Malay custom.”

[36] United Kingdom Colonial Office, Federation of Malaya: Summary of Revised Constitutional Proposals, presented by the Secretary of State for the Colonies to Parliament by Command of His Majesty, July 1947. p. 8, Item 18.

[37] “Immigration Policy Change: ‘Special Interest for Malays’” *Straits Times* 25 July 1947

[38] *The Morning Tribune*, Friday 25 July, 1947, p. 4.

[39] “Early Errors Corrected” *Straits Times*, 26 July 1947 reprinted from *The Times*

[40] NAA A1838 413/2/1/4 Part 1, BTSEA - Malayan Constitutional Reforms.

[41] Broadcast Speech by the Governor-General, 4 January 1948. NAA A1838 413/2/1/4 Part 1, BTSEA - Malayan Constitutional Reforms.

[42] A Gujarati terms used in reference to the closing of shops and business activity in protest. Derived from Gandhi’s use of hartals in anti-British activities in India. These hartals in 1947 are the subject of a film *Sepuluh tahun sebelum Merdeka* by Fahmi Reza. [Link](#)

[43] These have recently been republished.

[44] Editorial, *Malaya Tribune*, 24 January 1948. NAA, A1838 413/2/1/4 Part 1 : BTSEA [British Territories in South East Asia]- Malayan Constitutional Reforms.

[45] CO 537/3746 Federation of Malaya - Political Developments (1948), f. 28.

[46] CO 537/3746 Federation of Malaya - Political Developments (1948), f. 28.

[47] To Malaya from Paskin on Onn’s visit to Britain. Dated 22 Dec 1948, f. 60.

[48] In the 1955 election, Malay voters made up about 80% of the total electorate. Although

the Chinese made up close to 50% of the population, they constituted only about 20% of the total electorate because the stringent criteria in the 1948 Federation Agreement, albeit modified slightly in the early 1950s, meant that only a minority of Chinese were eligible for Malayan citizenship.

[49] Lee Hock Guan, *Political Parties and the Politics of Citizenship in Peninsular Malay(sia) 1957-68*, Singapore, ISEAS, p. 31, note 4. The text quoted was originally in the Tunku’s *As a Matter of Interest* (1981).

[50] Lim subsequently established a short-lived party named the United Democratic Party, and later was involved in establishing the Gerakan Party. He later became the longest-serving Chief Minister of Penang.

[51] Cheah Boon Kheng, *Malaysia: the Making of a Nation*, Singapore, ISEAS, 2004.

[52] The “Grand Design” for integration of British territories in Southeast Asia had been a part of British decolonization policies since the 1950s. “On 18 April 1961, the question of the Grand Design was considered at a meeting of the Colonial Policy Committee, during which it was decided ...the development of a political association between Malaya, Singapore and the three Borneo territories as ‘an ultimate aim of policy’.” “In pursuing this policy, it was clear that politics and security were foremost considerations. Only through a greater Malaysia were the British confident of granting self-government status to the Borneo Territories and Singapore.” See Tan Tai Yong, *Creating Greater Malaysia: Decolonization and the Politics of Merger*, Singapore, ISEAS, 2008, pp. 20-25.

[53] Tan Tai Yong suggests that the Malaysians were the least enthusiastic about the idea of an expanded polity such as Malaysia. See Tan, *Creating Greater Malaysia* pp. 20-21.

[54] Tan, *Creating Greater Malaysia*, p. 196.

[55] Founded in 1953 by D.R. Seenivasagam and his brother S. Seenivasagam as an opposition party to the Alliance. In 1969, it was almost able to form the Perak State Government, but after joining the Barisan

National in 1973 lost most of its support in the 1974 election.

[56] Cheah, *Malaysia: The Making of a Nation*, p. 161.

[57] See, for example, Khoo Boo Teik's *Paradoxes of Mahathirism* (Kuala Lumpur: Oxford University Press, 1995) and his *Beyond Mahathir : Malaysian politics and its discontents*, (London: Zed 2003).

[58] [Shaikh Mohd Nor Alam Sheikh Hussein and Basiran Begum](#), *Malay Reservations: Meeting the Challenges of the Millenium*.

[59] For fuller details, see Joseph M. Fernando,

“The Position of Islam in the Constitution of Malaysia”, *Journal of Southeast Asian Studies*, Vol. 37, 2006, pp. 249-66.

[60] [Link](#)

[61] [Link](#)

[62] [Link](#)

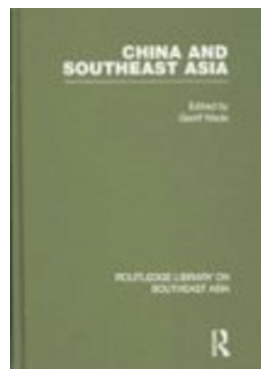
[63] [Link](#)

[64] [Marina Mahatir](#), “Rantings by MM”, Sep 9 2008.

[65] [Link](#)

[66] [Link](#)

[67] Passed by the Knesset on the 12th Adar Bet, 5752 (17th March, 1992) under prime ministership of Yitzhak Shamir



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