

MALAYSIA

MALAYSIA
GOVERNMENT AND POLITICS

MALAYSIA

GOVERNMENT AND POLITICS

Edited by

VERINDER GROVER

M.A., Ph.D.

Former Reader, Deptt. of Political Science,
and Managing Editor, Indian Political Science Review,
University of Delhi, Delhi



DEEP & DEEP PUBLICATIONS PVT. LTD.

F-159, RAJOURI GARDEN, NEW DELHI-110 027

MALAYSIA
Government and Politics of Asian Countries—8

ISBN 81-7100-934-4

© 2000 VERINDER GROVER

All rights reserved with the Publisher, including the right to
translate or to reproduce this book or parts thereof except
for brief quotations in critical articles or reviews.

Laser Typeset by PRINT INDIA,
A-38/2, Phase I, Mayapuri, New Delhi-110 064.

M
320-9595 Printed in India at ELEGANT PRINTERS,
A-38/2, Phase I, Mayapuri, New Delhi-110 064.

MAL
Published by DEEP & DEEP PUBLICATIONS PVT. LTD.,
F-159, Rajouri Garden, New Delhi-110 027
Phones : 5435369, 5440916

M
1007238

? 1 JUN 2001
Perpustakaan Negara
Malaysia

"I speak in particular for Burma, Malaya, Indo-China and Dutch East Indies, all bound to my own country by the closest ties of historical and cultural kinship and which cherish aspirations to national freedom like our own."

—(*Mrs. Vijayalakshmi Pandit* speaking
at San Francisco, on May 4, 1945.)

Contents

Preface	xi
Malaysia: An Introduction	1

PART I
HISTORY OF MALAYSIA

1. <i>Devahuti</i> Malaysia in Historical Perspective	11
2. <i>Datuk James P. Ongkili</i> The History of Malaysia, especially Sabah	36

PART II
**POLITICAL AND CONSTITUTIONAL DEVELOPMENTS
IN MALAYSIA**

3. <i>K.P. Kesava Menon</i> Politics and Parties in Malaya	63
4. <i>Harry E. Groves</i> The Constitution of the Federation of Malaya	81
5. <i>Tunku Mohamed</i> The New Malaya	115
6. <i>Mudrajad Kuncoro</i> A Quest for Structural Adjustment: The Malaysian Experience	123

- | | | |
|-----|--|-----|
| 7. | <i>Stepanus Juweng</i>
Turbulences in Sabah and Sarawak and
its Implications for Indonesia | 135 |
| 8. | <i>Morshidi Sirat</i>
Regional Development and the
Fifth Malaysia Plan (1986-1990) | 154 |
| 9. | <i>Firdaus Haji Abdullah</i>
The Phenomenon of Illegal Immigrants | 163 |
| 10. | <i>P.P. Narayanan</i>
Malayan Workers and their Future | 185 |

PART III

POSITION OF MINORITIES IN THE POLITICAL SYSTEM
OF MALAYSIA

- | | | |
|-----|--|-----|
| 11. | <i>M.K. Muhammad Kunhi</i>
Indian Minorities in Ceylon, Burma and Malaysia | 201 |
| 12. | <i>R.G. Singh</i>
Indian and Chinese Minorities in
Burma and Malaysia: Retrospect and Prospect | 267 |

PART IV

MALAYSIA AND THE INTERNATIONAL COMMUNITY

- | | | |
|-----|--|-----|
| 13. | <i>M. Ezhilarasi</i>
Indo-Malaysia (Malaya) Relations | 287 |
| 14. | <i>Official Report</i>
Malaya/Indonesia Relations
(31st August, 1957 to 15th September, 1963) | 310 |
| 15. | <i>Ismail Bin Dato' Haji Abdul Rahman</i>
Indonesian Intentions towards Malaysia | 387 |
| 16. | <i>Jusuf Wanandi</i>
Indonesia-Malaysia Bilateral Relations | 430 |
| 17. | <i>Firdaus Haji Abdullah</i>
The Rumpun Concept in Malaysia-Indonesia Relations | 441 |
| 18. | <i>Al Baroto</i>
Similarities and Differences in Malaysia-Indonesia
Relations: Some Perspectives | 460 |

19. *Jyotirmoy Banerjee*
Indonesia, Malaysia and the Indo-China Crisis:
Between Scylla and Charybdis 487
20. *Verinder Grover*
The Federation of Malaysia 507

Appendices

- I. *Lee Kuan Yew*
The Future of Malaysia 509
- II. Constitution of Malaysia 520
- Select Bibliography 711
- Index 717

Preface

Malaysia has an area of 3,29,758 Sq. Kms and consists of 11 States and 1 federal territory. It is bounded in the north by Thailand; in the south by Singapore; in the east by Borneo, the State of Sabah and the State of Sarawak; in the south by Indonesia and in the north-west and north-east by South China and Sulu Seas.

The State of Malaysia came into existence on 16th September, 1963 following the admission into the former federation of Malaysia of the three territories of Sabah, Sarawak and Singapore. The Federation of Malaya which comprised of previously protected Malaya States of Johore, Kedah, Kelantan, Negri Sembilan, Pahang, Perak, Perlis, Selangore and Trengganu, and the former British colonial settlement of Malacca and Penang had become independent state within the commonwealth on 31st August, 1957. However, on 9th August, 1965, Singapore seceded from Malaysia by a mutual agreement dated 7th August 1965.

The Constitution of Malaysia embodies the basic principles of a representative legislature, with a Lower House wholly elected on adult franchise, a cabinet responsible to the legislature and an independent judiciary.

The present volume is divided into four parts. Part I deals with the History of Malaysia; Part II throws light on the political and Constitutional Developments in Malaysia; Part III examines the position

of Minorities in the Political System of Malaysia; and Part IV studies Malaysia's Foreign Policy and its relations with other countries.

This book is a systematic piecing together of articles contributed by scholars and specialists to the various Journals of national and international repute. My special thanks are due to *Indonesian Quarterly*, *India Quarterly*, *United Asia*, *Foreign Affairs Reports*, *China Report*, *Indian Yearbook of International Affairs*, *Pakistan Horizon*, *Manthan*, and *The Statesman's Yearbook*, from which I have drawn freely.

I express my deep sense of appreciation to all contributors for the scholarly papers and gratitude to the various librarians and eminent scholars in the field who extended their cooperation to me.

New Delhi

VERINDER GROVER

years. The rulers also elect from among themselves a Deputy Supreme Head of State, also for a period of five years. Every act of Government is derived from his authority, although he acts on the advise of Parliament and Cabinet. The appointment of Prime Minister lies within his discretion, and he has the right to refuse to dissolve Parliament against the advice of the Prime Minister. He appoints judges of the Federal Court and High Courts on the advice of the Prime Minister. He is the Supreme Commander of the Armed Forces.

Making of laws is the responsibility of the Parliament consisting of two houses—*The Dewan Negara* (Senate) and the *Dewan Rakyat* (House of Representatives). Senate is a permanent body and senators serve for a period of three years, the House of Representatives is for a period of five-year term and can be dissolved earlier by the Supreme Head of the State.

JUSTICE

There is a Supreme Court and High Courts for peninsular Malaysia and Sabah and Sarawak, the latter sitting in each alternately. The Lord President as the Supreme Head of the Judiciary, the 2 Chief Justices of the High Courts and 6 other judges from the Supreme Court. Apart from having exclusive jurisdiction to determine appeals from the High Courts the Supreme Court is also conferred with such original and consultancy jurisdiction as is laid out in Articles 128 and 130 of the constitution.

A panel of 3 judges or such greater uneven number as may be determined by the Lord President preside in every proceeding in the Supreme Court.

The lower Courts in peninsular Malaysia consist of the sessions courts and the magistrate's courts, in Sabah and Sarawak of magistrates' courts only.

SUPREME HEAD OF STATE

Young de-Pertuan Agong H.M. Tuanku Ja'afar ibni Al-Marhum Tuanku Abdul Rahman, D.K., D.K.M., D.M.N., D.K.M.B., elected as 10th Yang di-Pertuan Agong on 4 Feb. 1994, crowned 26 April 1994.

DEPUTY SUPREME HEAD OF STATE, SULTAN OF SELANGOR

HRH Sultan Tunku Salahuddin Abdul Aziz Shah ibni Al-Marhum Sultan Hisamuddin 'Alam Shah Al-Haj, D.K., D.M.N., S.P.M.S.,

S.S.S.A., D.K. M.B., S.P.D.K., D.P., D.U. N.M., P.J.K., acceded 3 Sept. 1960.

THE CABINET

May 1995

Prime Minister: Datuk Seri Dr. Mahathir Mohamad

Deputy Prime Minister and Minister for Home Affairs: Datuk Seri Abdullah Ahmad Badawi

Minister of Transport: Dato Seri Dr. Ling Liong Sik

Minister of Energy, Communications and Multimedia: Datuk Seri Lio Moggie Anak Irok

Minister of Finance: Tun Daim Zainuddin

Minister of Second Finance Minister and Entrepreneur Development: Datuk Maustapha Mohamed

Minister of Primary Industries: Dato Seri Dr. Lim Keng Yaik

Minister of Works: Datuk Seri S. Samy Vellu

Minister of International Trade and Industry: Dato Seri Rafidah Aziz

Minister of Education: Datuk Seri Najib Tun Razak

Minister of Rural Development: Datuk Annuar Musa

Minister of Agriculture: Datuk Amar Dr. Sulaiman Daud

Minister of Domestic Trade and Consumer Affairs: Dato Seri Syed Hamid Albar

Minister of Defence: Datuk Abang Abu Baker bin Datu Bandar Abang Haji Mustapha

Minister of Information: Dato Seri Muhammad Rahmat

Minister of Culture, Arts and Tourism: Dato Seri Sabbaruddin Chik

Minister of National Unity and Social Development: Datin Paduka Zaleha Ismail

Minister of Human Resources: Dato Lim Ah Lek

Minister of Science, Technology and Environment: Datuk Law Hieng Ding

Minister of Housing and Local Government: Dato Dr. Ting Chew Peh

Minister of Land and Co-operative Development: Tank Sri Kasitah Gadam

Minister of Youth and Sports: Tan Sri Muhyiddin Yassin

Minister of Special Functions in the Prime Minister's Department: Daim Zainuddin

Nov. 1999

Datuk Seri Dr Mahathir Mohamad was re-elected as Prime Minister of Malaysia in the election held in Nov. 1999.

MAJOR POLITICAL PARTIES

Angkatan Perpaduan Ummah, founded in 1989.

Barisan Jama'ah Islamiah sa-Malaysia (Berjasa), founded in 1970.

Parti Hisbul Muslim in Malaysia (Hamim), founded in 1983.

Parti Islam Sa-Malaysia, founded in 1951.

Samangat '46, founded in 1989.

Barisan Nasional (BN), founded in 1973.

Democratic Malaysia Indian Party, founded in 1985.

Kongres Indian Muslim Malaysia (KIMMMA), founded in 1977.

Parti Nasionalis Malaysia, founded in 1985.

Parti Rakyat Malaysia, founded in 1955.

Sabah Chinese Party, founded in 1986.

Sabah Chinese Consolidated Party, founded in 1964.

United Malaysian Indian Party, founded in 1965.

MAJOR NEWSPAPERS

Berita Harian (Malay Daily), founded in 1957.

Business Times (English Daily), founded in 1976.

Chung Kuo Pao (Chinese Daily), founded in 1946.

Malay Mail (English Daily), founded in 1896.

Mingguan Perdama (Malay Daily).

Nanyang Siang Pau (Chinese Daily), founded in 1923.

New Straits Times (English Daily), founded in 1945.

Shin Min Daily News (Chinese Daily) founded in 1966.

Sin Chew Jit Poh (Chinese Daily) founded in 1929.

Tamil Nesan (Tamil Daily) founded in 1924.

Tamil Osai (Tamil Daily).

Tamil Thinamani (Tamil Daily).

The Star (English Daily), founded in 1971.

The Sun (English Daily), founded in 1993.

Utusan Malasia (Malay Daily), founded in 1965.

MAJOR BANKS

Bank of America, Malaysia Bhd., Kuala Lumpur.

Bank Negara Malaysia, Kuala Lumpur.

Ban Him Lee Bank Bhd., Penang.

Bank Bumiputra Malaysia Bhd., Kuala Lumpur.

Bank of Commerce (M) Bhd., Kuala Lumpur.

Bank Pembangunan, Malaysia Bhd., Kuala Lumpur.

Citi Bank N.A., Kuala Lumpur.

Development and Commercial Bank Bhd., Kuala Lumpur.

EON Bank Bhd., Kuala Lumpur.

Kwong Yik Bank Bhd., Kuala Lumpur.

Malayan Banking Bhd., Kuala Lumpur.

Malaysian French Bank Bhd., Kuala Lumpur.

MUI Bank Bhd., Kuala Lumpur.

Oriental Bank Bhd., Kuala Lumpur.

The Pacific Bank Bhd., Kuala Lumpur.

Perwira Affin Bank Bhd., Kuala Lumpur.

Public Bank Bhd., Kuala Lumpur.

Southern Bank Bhd., Kuala Lumpur.

United Malayan Banking Corporation Bhd., Kuala Lumpur.

United Overseas Bank (Malaysia) Bhd., Kuala Lumpur.

WEIGHTS AND MEASURES

The metric system is in force. There is also a local system of weights and measures.

1 cupak	= 1 quart (1.1365 litres)
1 gantang	= 1 gallon (4.5461 litres)
1 tahlil	= 1 + ounces (37.8 grams)
16 tahils	= 1 Kati 1 + 1b (604.8 grams)
100 Katis	= 1 picul + 133 + 1b (60.48 Kg)
40 Piculs	= 1 Koyan 5,333 + 1b (2,419.2).

CURRENCY

100 Sen = 1 ringgit Malaysia (RM), formerly known as Malaysian Dollar.

EDUCATION

In Malaysia free education is imparted to children between the ages of six and 18 years in all government-assisted schools. Education is compulsory for 9 years between the ages of six and 14 years. There are private schools, but these schools do not receive any financial aid from the government. Bhasa Malaysia is the main medium of interaction, while English is taught as the second language. Tamil and Chinese are taught only at the primary school level.

In 1992 there were 6,828 Primary Schools, 1342 Secondary Schools with 2,447,206 students respectively. In addition, there were many institutions of higher learning. There were 28 Teacher-Training Colleges, 8 Universities, 9 Polytechnics and Colleges. In August 1994 the ninth University was established in Sabah. In 1998 there were 2,872,427 pupils at 7,124 primary schools with 154,829 teachers, 1,889,592 pupils at secondary schools and, in 1997, 29,814 students and 16,175 teachers at higher education institution.

HEALTH

In 1997 medical professionals numbered 32,181 of which 14,248 were doctors, 1,865 dentists and 16,068 nurses. In 1995 there were 42,878 allied health professionals. These were divided into dental,

paramedics and auxiliary (2,720), medical assistants and laboratory technologists (5,392), nurses (32,401), occupational therapists and physiotherapists (410), public health inspectors (1,418) and radiographers (537). At the end of 1995 the Ministry of Health ran a total of 1,375 dental clinics. In the same year there were 39,738 beds in hospitals, clinics and other medical institutions.

TOURISM

Malaysia has a rapidly-growing tourist industry and the cultures of the many ethnic-groups in the country provide a particular attraction. In 1990, designated 'Visit Malaysia Year', 7.5 m. tourists visited Malaysia (of whom some 7.1 m. visited peninsular Malaysia), contributing US \$1,657 m. in receipts of foreign exchange. The year 1994 was also designated 'Visit Malaysia Year', owing to the success of the previous campaign; some 7.2 m. tourists visited, and tourists receipts totalled \$3,600 m.

PUBLIC HOLIDAYS

19-20 February* (Chinese New Year), 21-22 February ! (Hari Raya Puasa, end of Ramadan), 29 April (Vesak Day), 1 May (Labour Day), 21 May! (Hari Raya Haji, Feast of the Sacrifice), 3 June (Official Birthday of HM the Yang di-Pertuan Agong), 28 July (Mouloud Prophet Muhammad's Birthday), 31 August (National Day), November (Deepavali)#, 25 December (Christmas Day).

* The first two days of the first moon of the lunar calendar.

! These holidays are dependent on the Islamic lunar calendar and may vary by one or two days from the dates given.

Except Sabah and Sarawak.

PART I
HISTORY OF MALAYSIA

1

Malaysia in Historical Perspective

(From Earliest Times to Close of Sri-Vijaya Era)

DEVAHUTI*

In the ancient period, the region now designated Malaysia, specially its Western State of Malaya, was of great importance as a half-way house for the peoples of India, China, and continental and island Southeast Asia. For these times, when geography played a pre-eminent role in determining polity and economy, Malaya may be taken to indicate the Malay peninsula—a geographical entity—of which the northern narrow stretch now forms part of Thailand. Malaysia's eastern states in Borneo across the South China Sea consist of Sabah and Sarawak. Their history is, not unexpectedly, tied up with the rest of the large island of Borneo. Although very limited field work has been done so far in eastern Malaysia, it has resulted in significant information and material remains for the Indian cultural historian.

Interchange of ideas and goods between India and Southeast Asia had its beginnings in the prehistoric period. The oldest pebble artifacts discovered at Kota Tampan in the Perak Valley of Malaya have affinities with similar objects in Pleistocene terraces in India, Burma and Java.¹

* Dr. Devahuti is Reader in the Department of History, University of Delhi, Delhi.

There are also ethnic and linguistic connections between India and Malaysia through the Proto Australoid and Mongoloid elements present in both the regions.² Excavations in the Philippines, Malay peninsula, Java, northern Borneo and southern India have revealed similar, sometimes identical, iron-age objects, implements, weapons, bangles and beads, belonging to the first millennium B.C.³ Chinese sources refer to Indian products reaching their country by sea in the seventh century B.C., obviously by the Southeast Asian route. The Indonesians too appear to have sailed through the Indian and perhaps the South Atlantic oceans at a very early date, as suggested by the existence of the Indonesian-type zyllophone in western Africa prior to the establishment of Sri-Vijaya.⁴ Equally significantly, Indonesian navigational activity in the Pacific, possibly as far as the nearer coast of South America, at a later date than in the westward direction, is indicated by parallels in the field of art and architecture with early South American civilizations. Early Portuguese sources, too make significant references to Indonesian expertise in charting the seas.

The bead trade of the ancients linked the harbours of the vast Asian continent for many centuries. Sites in northern Philippines; Oc Eo in Funan (Indo-China); Kota Tinggi in Johore and Kuala Selinsing in Perak; and Arikamedu near Pondicherry, all appear to have been part of the chain.⁵ The discovery of Hittite, Phoenician and Roman beads at Kota Tinggi, in view of India's affluent trade with the Roman world, is suggestive of the presence of Indian intermediaries in the area.

The earliest settlements in Malaysia were, for geographical reasons, along the coast. Their development was determined by the quality of their hinterland and by their situation in respect to regional and international land and sea-routes. The slow opening up of the country, a surplus of produce and growing population interacted with foreign contact to effect the nature of Malaya's internal social structure and her external political and economic alignments. At the time when Indian trade intensified around the beginning of the Christian era with a demand for Southeast Asian gold, tin, scented woods, spices, etc., Malay society was economically and politically receptive to the introduction of better organisational skills, and in the field of art and religion to greater enrichment. However, the transformations that took place in the Malay indigenous milieu obeyed their own ethos.

It is not easy to obtain details regarding the terms or even the items of trade between India and the Malay world. India and Malaysia had

different things to offer to each other in the form of raw materials, manufactured goods and skills. Any appraisal of the terms of trade would have to take into account their value in cash and kind. Moreover, the capability, will, wish and need of each party to take from the other and the extent to which it actually did so would have to be gauged.

In as much as mental attitudes affect factors that influence economic relations it may be said that there is no evidence that one people regarded the other as superior or inferior. In such circumstances there would have been considerable mixing between them at the human level. As the presence of kith and kin in a region and the possibilities of greater material gain in a given country are often the persuasive factors in the investment of final profits, the ultimate monetary commitment of Malay or Indian traders would have been determined by the number of liaisons they formed and the extent of land and status they gained in the country of their opposite numbers.

As for the items of trade, gold was sought by Indians in South-East Asia when their Siberian source for it was cut off consequent upon the blocking of trade routes in Central Asia through the movement of nomadic tribes in the last centuries B.C.⁶ However when one of the tribes, the Yueh Chih, finally settled down in India to give birth to the Kushana empire extending as far as Banaras, new possibilities of trade opened up with Southeast Asia, not only for gold but also for other articles.

The exhaustion of Roman supply of bullion as price for Indian luxury goods also directed the Indian traders' attention to Southeast Asia.⁷

Chinese sources indicate that the early kings of Funan had relations with the Murunda (Kushana?) dynasty of India⁸; even the founder Hun-t'ien-Kaundinya himself might have belonged to an Indianised Central Asian tribe.⁹ Ko-ying or Chia-ying to be located either on the Malay peninsula or in Western Indonesia imported Yueh-chih horses from North-Western India.¹⁰

Other parts of India had trade contacts with Southeast Asia.¹¹

Among aromatics garu wood¹² and sandal wood are referred to in the Indian texts. The highly valuable white sandal wood may have been brought from Timor or Sumba to ports in Western Indonesia for transshipment to India. Cloves¹³ came from eastern Indonesia. The wild growing cubeb pepper—*Piper Cubeba* Linn., Pi-Tengchia of Ch'en Ts'ang-ch'i (transcription of Sanskrit *vidanga-embeitia ribes*

Burm.) from western Indonesia may have been used by Indian traders to supplement if not to adulterate their own cultivated black pepper which they supplied to the Roman world.¹⁴ Indonesian camphor (indigenous *Kapur*, Skt. *karpura*) was also being imported but probably in limited quantities in the early stages as suggested by the relatively lesser status, say in comparison with black pepper, accorded to it in the medical texts of Charaka and Susruta. Perhaps its curative properties were in the process of being discovered. But *Karpura-dvipa* is mentioned in the *Katha-sarit-sagara* based on the *Brihat-katha* of the early centuries A.D. Although camphor is found in Sumatra and widely over the Malay Peninsula it has been suggested¹⁵ that *Karpuradvipa* probably applied to western Borneo. Direct Indian contacts with eastern Borneo may be dated prior to the fourth century A.D. on the basis of the Kutei inscriptions and with western Borneo perhaps around the same time. The absence of the mention of camphor, benzoin, and cloves in early Roman sources indicates that the commodities were not imported by Indian traders in quantities large enough for export to the Mediterranean world. Tin-ore occurs in Sumatra and throughout the length of the Malay peninsula. The Indians probably traded in it from early times. The Sanskrit word for tin is *vanam*, probably because it was first imported through Vana (southern Bengal).¹⁶

The Indian political relationship with the States of the Malay archipelago was, for reasons of distance and culture differentiation, more tenuous than that of the Malay regional states with each other; hence the authority of Malay coastal states on Borneo, the Buginese states in eastern Sambawa and western Flores and on the islands of Riau and Lingga, and the Balinese control of Lombok. The record of a Buddhist sanctuary shows that Papua slaves were found in Java in tenth century.¹⁷

So far as India and the states of Southeast Asia are concerned, one must reject the idea of Indian political imperialism¹⁸ notwithstanding the impressive Chola campaign of early eleventh century A.D. Culturally, however, the influence of Indian thought and institutions on Southeast Asian political, economic and legal systems, religion, art, languages and literature, etc., was very considerable. Mainly transmitted through trade it was supported throughout by conveyors of religion and philosophy, arts and crafts, science and technology. There were also despatches of political envoys. Matrimonial liaisons took place between Indians and Southeast Asians at different levels of society.¹⁹ Even after a virtual break of five centuries of the Indo-Islamic, and almost double that of the

Hindu-Buddhist interaction between India and Southeast Asia, the surviving visual evidence of correlation is far in excess of what the conventional source materials supply on the subject. Moreover, all strata of society were touched by this correlation. The exponent of the fashionable 'elite' theory, make too much of the interaction at the level of court and temple and minimise that which took place at the level of the common man. However, from the bead trade of prehistoric times to the Buddhist votive tablets and miniature stupas of clay, and inexpensive metal from early centuries until present times and from folklore to wayside theatre on localised Mahabharata and Ramayana themes there is proof for the latter. The response to Indian culture both in its quantitative and qualitative aspects was determined by various factors. Among many other things there must have been the circumstance of an initial rapport between indigenous beliefs and the more elemental aspects of Hinduism. As acculturation proceeded, the myths, symbolism and various complexities of the incoming religions were also absorbed. Indian traders had had to stay in the new countries to dispose of and acquire trade goods and to await the next favourable monsoon for the onward or return journey. During this time they also acted as instruments of cultural exchange. Acceptance on the part of the Malays, of Indian ideas and institutions, added, in turn, to the importance of these traders and of their cultural retinues. If local marriage and the acquisition of some land were achieved, a dominant status was assured for the Indian trader-settler. It was the combination of the two streams, the Indianised Southeast Asian and the Asianised Indian, which ultimately led to the syncretic empires of Southeast Asia.

Although the kingdoms of the area had indianised monarchies and political systems, we mostly have only the sincised nomenclature for the early kingdoms and peoples as our information is derived from the Chinese sources. The Malay peninsula had a confederacy of five kings named Tun-hsun in the north.²⁰ Its beginnings were, probably, not much later than Funan in Indochina in the first century A.D. for it would have been worth-while for Funan to conquer only a well established state which her king Fan-man did in annexing Tun-hsun in the third century A.D. Fan-man also conquered Chu-tu-k'un and Chiu-chih which too were situated on the Malay peninsula. Tun-hsun is said to have maintained contacts with Tongking in the east and with India (T'ien-chu) and Parthia in the west. "At this mart (Tun-hsun) East and West meet together so that daily there are innumerable people there. Precious goods

and rare merchandise—there is nothing which is not there.”²¹ It is also recorded : “ In the country there are 500 families of *hu* (merchants)? from India, two hundred *fo-t'u* (Buddhist?) and more than a thousand Indian brahmanas. The people of Tun-hsun practise their doctrine and give them their daughters in marriage; consequently many of the brahmanas do not go away.....They study the sacred cannon.....and practise piety ceaselessly by day and night.”²²

By the fifth century Funan, which was suffering under weak rulers, approached p'an-p'an, possibly one of the five constituents of Tun-hsun, and stretching across the Kra Isthmus to the Bay of Bandon, to supply her with an able ruler. The brahman from p'an-p'an who was installed as king took the title Chiao Chen-ju (Kaundinya) II, the first ruler of that name being the founder of Funan.

Langkasuka was probably another important kingdom of Tun-hsun which lay south of p'an-p'an. Its main port was Patani on the east coast. Langkasuka is mentioned in Indian, Chinese, Malay, Javanese, Arab and possibly European sources.²³ According to the Chinese histories a king of Langkasuka was married to an Indian princess. His son and successor p'o-ch'ieh-ta-to (Bhagadatta?) sent an envoy A-ch'e-to to China in A.D. 515.²⁴

Hsuan-tsang concludes his description of Samatata by mentioning in an eastward direction the existence of Kama-lanka (Langka-suka), Dvara-vati, Isana-pura (chen-la) Maha-champa and (yamana-dvipa?).²⁵ I-tsing's *Memoir on the ...Doctrine.....* contains similar information.²⁶ *His Memoir on the....Monks.....* gives the names of several pilgrims who touched at Langkasuka in the course of their voyages: Tao Lin visited it on his way to India; I-Huei died there; I-Lang and his two companions were courteously welcomed by the king of the place. The Hsu Kao-seng-chuan a collection of biographies of Buddhist monks compiled in the seventh century records that Chu-na-lo-t'o (kula-natha, better known as Paramartha, A.D. 500-569) wanted to visit Langkasuka.

The Tanjore inscription of A.D. 1030 includes Ilangasokam (Langkasuka) and Kadaram (Kedah) among the conquests of Rajendra Chola I in his invasion of Sri-Vijaya.

By far the most important kingdom of ancient Malaya was Kedah-Kataha of the Sanskrit, Kahadadipa of the Prakrit, and Kadaram of the Tamil, chieh-ch'a, kie-t'o or ko-lo of the Chinese and Keda or Kalah of the Arabs.²⁷

Located directly across the Bay of Bengal, situated on the trans-peninsular route to the east, endowed with a rich hinterland and possessing a well protected harbour with suitable landmarks and, in those days, a deeper and wider estuary of the R. Merbok, Kedah had special importance for Indian sailors. It therefore, figures relatively prominently in Indian literature and has yielded the richest archaeological evidence of Indian influence. The latter material has been discussed in detail in the relevant section of this essay.

Among literary evidences, the Tamil poem *Pattinappalai* of the 2nd - 3rd centuries A.D. probably contains the earliest, if Kalagam in trade with puhar (kavirippattinam) stands for Kadaram and not for some other place on the peninsula.²⁸ The Puranas dating from 4th century A.D. onwards but incorporating earlier tradition make references to Kataha. The *Vamana* and the *Garuda* describe it as one of the nine islands of Jambu-dvipa, the *Agni* refers to it as anda-kataha with a peak as a boundary.

The Sanskrit play *Kaumudi-mahotsava*²⁹ of c. 7th century A.D. refers to Kataha-nagara. Maha-kataha-dipa is mentioned in the 8th century Prakrit work *Samarachchaya-kaha* of Haribhadra Suri. The two *Katha-s* of the 11th century, based on *Brihat-katha* of the early centuries of the Christian era, refer to Kedah, the *Brihat-katha-manjairi* as Kataksha-dvipa and the *katha-sarit-sagara* as Kataha.³⁰ It is the same fabulous Kedah which figures in the Chola inscriptions describing the attack on Sri-Vijaya by Rajendra I.

Kalah occupies an equally important place in Arab literature.³¹ Mas'udi (10th Century A.D.) records: "Around the countries of Kalah and Sribuza are mines of gold and silver, "but above all Kalah is noted in the Arab accounts for her tin, camphor and bamboo not to speak of a host of other jungle products. Quoting Abu Dulaf Mis'ar (10th century), Yakut writes about Kedah: " ... a tin mine, there was such as existed nowhere else in the world.. from which Kala'i swords were forged and they were the true Indian swords". The Arab chroniclers describe Kalah as 'the beginning of India' (Abu Dulaf), 'a great empire bordering on India' (Thousand and one nights, Sindbad's fourth voyage), 'a land at the extremity of India', (Yaqut), "...isle...in the sea of India' (Abu'l Fida'), a town of India' (Bakuwi). It is also stated that Kalah was a meeting place for the Brahmanas, the sages of India. Kedah's boundaries varied over the centuries but her importance was never seriously affected by the vicissitudes of the empires of which she formed a part, Tun-hsun, Sri Vijaya or any other.

Pahang, another ancient state of Malaya, is mentioned in the Chinese sources. One of her kings in contact with the Chinese in the fifth century was Sri Pala-varma (?). Pahang has always been famous for its supplies of tin and gold. At the end of the nineteenth century a modern mining company reported to the Governor of the Straits Settlements, that they found in Pahang a hill in deep jungle perforated with pits to a depth of over 160 feet, extending for miles and dug so closely together that there was room for only one man to walk between them. It was added, "we could not dig one of these pits for less than \$ 6000 and there are not only hundreds but thousands of them. It must have taken centuries to have done all this, and thousands of men...."

It would be well to mention here the existence on the peninsula of an important Hindu Buddhist kingdom Ch'ih-t'u literally Red Earth described in various Chinese works.³² Stated to be 'another part of Fu-nan' and situated south of Lang-ya-hsu (Langkasuka), it was a flourishing kingdom in the seventh century A.D. Its capital was Seng-chih. Although various locations have been proposed for it including Southern Thailand, Southern Malaya, Sumatra and north of the peninsula, the latter most with an eastern focus appears to be the most plausible. Moens, Coedes, Briggs, Luce, Hsu and Wheatley have all located it in that region somewhere on the east coast although at different spots, while Wales has supported Kedah.

The Maha-navika Buddhagupta of Rakta-mrittika or Red Earth whose benedictory Buddhist inscription in early fifth century South Indian characters was found in province Wellesely may well have been a resident of Ch'ih-t'u.³³ The Chinese works emphasize the Buddhist-Saiva character of the kingdom. Although "it is the custom to worship the Buddha but greater respect is paid to the brahmanas". "In front of the king's couch is a recumbent golden bull (expectedly nandi)...Several hundred brahmanas sit in rows facing each other on the western and eastern sides. The officials are (in their Sanskrit transliteration) one *sadhukara*, 'benefactor' or *Sardhakara*, 'assistant', two *dhanada*, 'dispenser of blessings' three *karmika*, 'agent' in charge of political affairs, one *kula-pati*, 'head of the house administering criminal law. Each city appoints one *nayaka*, and ten *pati*."

The dead of both nobility and commoners were cremated and their ashes disposed of in water but the king's ashes were 'preserved in a golden jar and deposited in a temple.

The Chinese emperor Yang-ti was so anxious to have diplomatic relations with Ch'ih-tu that in A.D. 607-8 he sent an embassy, on his own initiative, comprising important officials who carried a large number of presents for king Ch'u-t'an Li-fu-to-se.³⁴ The brahmana Chiu-mo-lo received them with 80 ocean-going junks. Later when the envoys were conducted into the royal palace by two brahmanas conches were blown and drums sounded. At the time of the royal audience 'Indian music was played'. Back in their dwelling the envoys were offered food by the brahmanas on large leaf platters. On a ceremonial occasion they were feasted on wine, cakes and a variety of meats including beef, pork and fish. Among the various return gifts from Ch'ih-t'u were Barus camphor and a gold cast of a *to-lo* leaf (*tala-patra*) with an inscription placed in a golden casket.

Although not a part of Tun-hsun, but another part of Fu-nan, Ch'ih-t'u, the Red Earth land, most likely with an eastward focus in the north of the peninsula was thus an important kingdom of ancient western Malaysia possibly from the fifth century through at least seventh century. It may have later merged into more important kingdom.

Rich in minerals and forest products, and strategically placed both for overland and overseas trade, the northern part of the Malay peninsula was, thus, politically and administratively fairly well-organised from about the beginning of the Christian era, but it is difficult to find a continuous account of the history of the region in the ancient period.

The Funan phase of Malaya was probably followed by a short interregnum when each of the various kingdoms had an independent existence and no collective overlord, but soon after, the region became the important northern half of the Sri-Vijaya empire (of which the first epigraphic evidence in Malaya belongs to A.D. 775 and the last prior to 1230) comprising Malaya and Sumatra with control over the Straits of Malacca and Sunda.

Sri-Vijaya

Funan (in Indo-China) which controlled the northern parts of the Malay peninsula from the third century A.D. declined in power about the middle of sixth century with the rise of Chenla (modern Southeast Laos). In the meantime, Sumatra saw the rise of Sri-vijaya in the latter half of the seventh century.³⁵ After gaining control over the Straits of Sunda and Malacca her kings extended their power over northern Malaya as proved by the Ligor inscription of A.D. 775 recording the construction there of

Mahayana Buddhist temples at the behest of a Sri-vijaya king, possibly named Dhama-setu.³⁶ Control over the important sea routes, the narrow Isthmian crossover, and the rich hinterland of Kedah and Perak on the west coast, and of the region stretching from Langkasuka (further north of Kedah) down to Pahang on the east coast, led to the material prosperity and cultural enrichment of Sri-vijaya.

From about the middle of the ninth century, Sri-vijaya, which was centred in Sumatra, and the Malay peninsula came under the domination of the Sailendras of central Java whose title has caused scholars to connect them variously with Bengal, Kalinga and Funan, most convincingly with the latter-most.³⁷ Already the Sailendra-vansaprabhu, "Sri-maharaja" vishnu³⁸ had his praise inscribed on the other side of the Ligor stele, in South Indian script, undated but not far removed in time from the two Sailendra records from Java in pre-nagari script, one from Kalasan dated 775 and the other from Kelurak dated 782. The Sailendras, the builders of Borobudur (mid-ninth century) were in close contact with the Palas whose religious beliefs and art styles are reflected in contemporary Sri-vijaya. According to the Kelurak inscription Kumara-ghosha, the Guru from Gaudadvipa (Bengal) installed the image of Mañju Sri for the Sailendra king,³⁹ and some time before 860, king Bala-putra-deva, the great grandson of Maharaja Vishnu, built a monastery at Nalanda to which Deva-pala donated the revenue of five villages. Later the Sailendras of Sri-vijaya built a Buddhist monastery at Negapatam in C. 1006 which was patronised by the Chola kings Rrja raja I (985-1014), Rajendra I (1012-1044), and Kulottunga I. Bala-putra-deva was the son of Samara-tunga by the Sri-vijayan (Sumatran?) princess Tara. The latter's rule over Central Java was supplanted sometime after 824 by the Saiva descendants of Sanjaya, whom the Sailendras, had overthrown in c. A.C. 750. Pikatan of Sanjaya's house was in fact related by marriage to the Sailendras, his queen being the daughter of Samaratunga. Samara-tunga's son, Bala-putra-deva moved to Sri-vijaya centred in Sumatra and the Malay peninsula some time after 856. His Pala contacts have already been mentioned. Pikatan and his successors built a number of Saiva temples in Central Java, but in tenth century they moved their headquarters to eastern Java. The Sailendras of Sri-vijaya maintained cordial relations with both India and China. Further expansion of trade resulted in greater prosperity. The Arabs have left glowing accounts of their success. According to Masudi (943) the Sailendra empire (Al-Zabaj, Sri-vijaya)

was so widespread that even the most rapid vessels of the time could not go round it in two years. "It was without limit and had innumerable troops." The maharaja, he tells us, was so rich that he threw a brick of gold every day in a shallow lake. On his death, the treasure was distributed among the royal family, various officials and the poor of the realm.

Around A.D. 990 the kings of central and east Java felt powerful enough to attack the Sailendras of Sri-vijaya. The latter strengthened their position through closer contacts with India (Cholas) and China and finally defeated their rivals in 1016. It was probably their mutual antagonism which afforded the Cholas an opportunity to lead a powerful expedition of contest with Sri-vijaya, the maritime supremacy of the Bay of Bengal. Even as early as 1007 Raja-raja I had claimed the conquest of twelve thousand islands. In 1017 his son Rajendra Chola may have attacked the peninsular territories of Sri-vijaya by raiding Kataha. The next major expedition may be dated 1025 when according to the Tanjore *prasasti* (1030-31) of Rajendra, the Cholas attacked the following places mentioned with their identifications, those on the Malay peninsula being marked with an asterisk: Sri-vijaya (Palembang); Pannai, Pane (east coast of Sumatra); Malaiyur (Jambi); Mayirudingam, the Jih-lo-t'ing of Chao Ju-kua on the Isthmus; Ilangasoka, Langkasuka; Mappappalam Papphalama of the Maha-vamsa (deltaic Burma, a southern province of Pagan); Mevilimbangam (not identified satisfactorily); Valaippandu ru (not identified satisfactorily); Talaittakolam, Takola of Ptolemy and of the *Milinda-panha* on the Isthmus; Madamalingam, the Tambralingam of the Chaiya inscription and the Tan-ma-ling of Chau Ju-kua, at Ligor; Ilamuri-desam, the Lamuri of the Arabs, Lambri of Marco Polo and Lan-wu-li of Chao Ju-Kua at the northern tip of Sumatra; Manakkavaram, the Necuveran of Marco Polo, Nicobar Island; *Kadaram, Kedah.

The *Sejarah Melayu* (Malay Annals) attribute the destruction of Ganganagara at Dinding on the other side of the Perak river; of a fort on a tributary of the Johore river; and of Tumasik (the side of Singapore) to a ride by the Tamil Raja Shulan (Cholan).

It may be assumed that the empire of Sri-vijaya was constituted on the same confederate basis, with a number of lesser kings bound in subordinate alliances with the *chakravarti*, as were many of the empires of India. However, this was not the kind of relationship between the Cholas and Sri-vijaya—the traditional Indian *chakravartikshetra* did not

extend beyond the natural geographical boundaries of India—and it is a wonder that such a raid was at all contemplated. Perhaps like the brahman, who violated the rule inhibiting sea travel, synonymous with ambition for material gain and later also with proselytization, as opposed to his intended vocation to seek spiritual gain, the kshatriya too, when valour became the better part of discretion,⁴⁰ set aside the goal meant for him on idealist as much as pragmatic grounds. A distance of something like 1500 miles was too much even for sustaining nominal suzerainty for any great length of time, yet the Chola kings maintained their interest in Sri-vijaya at least until 1068 (i.e. for almost 50 years) when Vira-rajendra is said to have “conquered Kadaram on behalf of the king who had come to ask for his aid and protection and delivered the conquered country to him.”⁴¹ It might have been a disputed succession within Kedah or between candidates respectively of Sri-vijaya and Kedah. In any case, an intervention was profitable to the Cholas, and added to their importance in the region.⁴²

That the Chola Sri-vijaya relations gradually improved—the latter had in the meantime closed up their rift with east Java—is also attested by the smaller Leiden grant⁴³ according to which the Chola Rajendradeva-kulottunga I at the request of the king of Kidara renewed in 1090, the grant to the 85 year old Buddhist monastery at Negapatam.⁴⁴ There is also a Tamil inscription dated 1088, found at Labu Tuwa near Baros, issued by a powerful corporation of merchants from southern India.

Sri vijaya and east Java flourished side by side. In the house of Mataram the dynastic name retrospectively applied to the line of Sanjaya which had transferred itself to east Java under Sindok in 929, was born Erlanga (c. 1001), of the great grand-daughter of Sindok married to a king of Bali named Udayana. Before his death (c. 1049) Erlanga divided his kingdom in two: Janggala and Panjalu or Kadiri. The two divisions were finally united by a usurper, Angrok, who founded the new kingdom of Singosari in 1222. It was the last king of this dynasty, Krita-nagara, who contributed to the downfall of the now declining empire of Sri-vijaya. Krita-nagara's reign (1268-1292) also saw the invasion of the Mongols. His son-in-law and successor, Vijaya (Krita-rajasa Jaya-varadhana) was the founder of the house of Majapahit. Majapahit reached its apogee under the prime-ministership (1331-64) of Gajah Mada who served from C. 1319, three monarchs, the last outliving him by 25 years. Sri-vijaya slowly disintegrated and the greater part of the Malay peninsula came under Majapahit's influence even if not under its direct rule.⁴⁵

But to trace the vicissitudes of Sri-vijaya from the 12th century. Secure once again in her relations with India (Cholas) and East Java, and on good terms with China where envoys were despatched, Sri-vijaya resumed her role as a great maritime power in the latter half of the eleventh and most of the twelfth century. The Arab geographer Idrisi writing in 1154 records the factors which led to traders' preference for Sri-vijaya: unsafe conditions in China and India and the facility in business offered by the fair and pleasant Sri-vijayans.⁴⁶

The *Ling-wai Tai-ta* of 1178, however, considered Java to be a greater store of goods than Sri-vijaya although it described the latter as "an important thoroughfare on the sea routes..."⁴⁷ The *Chu-fan-chih* of 1226 severely criticised the coercive trade methods of Sri-vijaya,⁴⁸ in themselves indicative of the declining strength of the empire. This work also gives us some information on Sri-vijaya's trade with India and records that ships arrived annually from San-fo-chi (Sri-vijaya), Chien-pi (in eastern Sumatra) and Chi-to (Kedah) in Nan-p'i (Malabar).⁴⁹

The list of Sri-vijaya's dependencies in the *Chufanchih* indicates a diminution of territory as Melayu is omitted and Chien-pi is stated to have become independent. But the peninsular territory appears intact and the following are included: Pahang, Trengganu, Langkasuka, Kelantan, Fo-lo-an (Kala Berang on Trengganu river?), Jih-lo-t'ing (near Ligor and Grahi), Ch'ien-maipa-t'a(?), Tamba-linga, Chaiya, and Ch i-t'o (Kida, Kidaram, Kedah). Si-lan (Ceylon?) is also mentioned as a dependency of Sri-vijaya. In 1230, however, Chandra-bhanu of Tamba-linga (Ligor) in the north revolted and captured Grahi. In 1247 he succeeded in establishing a settlement in Ceylon but was defeated in a conflict with her in 1270. He had been on friendly terms with the Thai who, upon his decline, over-ran the peninsular possessions of the already dismembered Sri-vijaya. Tumasik (Singapore) which flourished between 1299-1391⁵⁰ was, however, able to repulse a Thai raid made in the fourth or fifth decade of the fourteenth century. Perhaps it succeeded because it was within the Majapahit polity.⁵¹ The *Nagarakrtagama* of Prapancha composed in 1365 lists fifteen dependencies of Majapahit in Pahang which then denoted the southern half of the Malay peninsula: Hujung-medini (Johore), Langkasuka, Sai (buri), Kelantan, Trengganu, Nasor, Paka, Muara Dungun, Tumasik, Sang-hyang-hujung, Klang, Jerai, and Kanjapiniran.

Prapancha's claim may not be taken to mean Majapahit's tight or even continuous political control of all the territories all the time, not only

- pepper is found from India to Java. Indian traders might have described the Indonesian *Piper Cubeba* as *vidanga* because of the similarity of the two in appearance and properties. See B. Laufer, 'Vidanga and Cubebes', *T'oung Pao*, 16, 1915, pp. 282-88.
15. Paul Wheatley, *The Golden Khersonese*, pp. 284-5.
 16. Tin-ore is *bejeh* in Malay and the melted metal is *timah*. To tin vessels is *kalai* both in Malay and Hindi.
 17. N. J. Krom, *Hindoe-Javaansche geschiedenis*, 1931, pp. 223 and n. 1, cf. 300.
 18. *Op. cit.*, 90 cf. 1001, J. C. Van Leur, *Indonesian Trade and Society*, 1960, p. 84.
 19. Kaundinya, a brahman who founded the kingdom of Funan at the beginning of the Christian era married a local 'naga' princess; the *T'ai-p'ing Yu Lan* quotes sources to tell us that in the early centuries A.D., the Indian inhabitants of Tun-hsun — *ku* (merchants?), *fo-t'u* (Buddhists) and brahmins married the daughters of the soil, present day Indian merchants, many of whom the author met in East Kalimantan marry locally and are settled there.
 20. Some of the Chinese works containing information on Tunhsun are as follows: Nan-chou I-wu Chih (3rd century A.D.) preserved in the *T'ai-p'ing Yu Lan*, *Liang-shu* (7th century), *T'ai-p'ing Yu Lan* (10th century), *Wen-hsien-T'ung-kao* (13-14 centuries). Also see P. Wheatley, *The Golden Khersonese*, pp. 15-21.
 21. *Liang-shu* (of early seventh century), Chapter 54, folio 7 recto.
 22. *T'ai-p'ing Yu Lan*, Chapter 788, folio 1 verso. This work quotes from the fifth century *Fu-nan Chi*.
 23. The following works contain references to Langkasuka which is 'spelt' in a variety of ways:
Liang-shu, *Ta-T'ang Hsi-yu Chi* by Husan-Tsang (tr. Beal, Watters), *Nan-hai Chi-kuei Nei-fa Chuan* (Memoir on the Doctrine etc.) by I-tsing (tr. Takakusu) and *Ta-T'ang Hsi-yu Ch'iu Kao-seng Chuan* (Memoir on the Monks etc.) by I-tsing (tr. Chavannes), *Hsu Kao-seng-chuan* (seventh century), *Ta-T'ang Ta-tz'u-en-shu Sun-ts'ang Fa-shih Chuan* by Hui-Li and Yen-Sung, *T'ung Tien* (8th century), *T'ai-p'ing Huan Yu Chi* (10th century), *Wen-hsien T'ung-k'ao*, *Sui-shu*, *Pei-Shih*, *ch'u T'ang Shu* (10th century), *Hsin T'ang Shu* (11th Century), *Chu-fan-chih* of Chau Ju-kua (13th century), *Tao-i-Chih-lioh* by Wang Ta-yuan (14th century), *Wu-pai-chih* charts, *Kitab al-Minhaj al-fakhir fi'ilm al-bhar al-akhir*, Tanjore *prasasti*, Nagra kritagama (14th century), Linshoten in the *Itinerario* (16th century), *Kedah Annals* (18th century). Also see P. Wheatley, *Golden Khersonese*, pp. 252-65, D. Devahuti, *India and Ancient Malaya*, pp. 22-29.
 24. *Liang-shu* of early seventh century repeated by *T'ung Tien* of eighth century, *T'ai-p'ing Huan Yu Chi* and *Wen-hsien T'ung-k'ao* by Ma Tuan, c.A.D. 1300.
 25. Beal, Book X, p. 200, cf. *Life*, pp. 132-3.
 26. Tr. J. Takakusu, Oxford, 1896.
 27. The following works contain references to Kedah:
Vayu, Agni and Vamana puranas, *Kaumudi Mahotsava* (7th-8th centuries), *Samaraschcha-kaha*, by Haribhadra Suri (8th century), *Katha-sarit-sagara*, *Brihat Katha-manjari*, *Patinappalai* (2nd-3rd centuries A.D.) *Divyakaram*, *Silappadikaram*, *Tanjore Prasasti*, *Ta'ang Hsi-yu Ch'iu fa Kao-seng Chuan* (7th century), *Wen-hsien T'ung-k'ao* (13th century), *Chu-fan-chih* by Chau Jukua (13th century),

Tao-i-Chih-lioh by Wang Ta-yuan (14th century), *Hsing-Ch'a Sheng-lan* by Fei-Hsin (15th century), *Hsi-yang-chao-kung-tien-lu* by Huang Sheng-Ts'eng (16th century), *Wu-pei-chih* by Mao Yuans-i (17th century); *Ming-Shih* by Chang T'ing-yu (18th century); *Nagarakritagama, Suma Oriental* of Tome Pires. The form Kedā appears only in *Kitab al-Minhaj* by Sulaiman (16th century) and Kalah in '*Akhbar as-in wal-Hind, Sindbad's fourth voyage* (from the *Thousand and one nights*), *Mukhtasar al-aja'ib* and in the works of Abu Zaid, Abu Dulaf (preserved in Yakut and Gazwini), Buzurg, Ibn Khurdadhbih, Ya'qubi Ibn al-Faqih (extract of his work preserved in 'Ali bin Ja'far de Shayzar), Ibn Rustah, Mas'udi, al-Biruni, Idrisi, Yāqut, Qzawini, Ibn Sa'id, Dimashqi, Abu'l-Fida', Bukuwi, Ibn Serapion, Kharāqi, Ibn al-Baitar and Abu'l-Fazl 'Allami'.

Kern, K.A. Nilakanta Sastri, Jean Sauvaget etc equate Kalah with Kedah, Groenveldt, Ferrand etc. with Kra and Wheatley with the Mergui district on the Tenasserim coast. For a summary of different views on the identification of Kalah, see P. Wheatley, *The Golden Khersonese*, pp. 222-24.

28. While the *Divakaram*, an early Tamil lexicon explains Kalagam (black) as a synonym for Kadaram (brown verging on black), a gloss on the *Silappadikaram* (C. 8th century A.D.) mentions both Kalagam and Kidaravan as sources, respectively of silk and aloes wood. Coedes doubts the identification (B.E.F.E.O. vol. XVIII, p. 20). K.A.N. Sastri accepts it (J.G.I.S., Vol. V, pp. 128-9). The fact that the Cholas, after their successful Srivijaya campaign in the twelfth century named a site near Kavirippattinam as Kadaram konda lends support to K.A.N. Sastri's view. It also points to Kedah's great importance in Sri-vijaya.
29. Act V
30. In one of the four stories (taranga 61) in which it is mentioned, Kataha is described as the source of aloes wood (which a foe) of a merchant reduced to charcoal which his customers were familiar with and would buy, rejecting aloes wood they did not know of)
31. Mentioned many times it is commonly identified with Kedah although once the place-house Keda also appears in Sulaiman's *Kitab al-Minhaj*. See above, latter part of fn. 16 for the identification of Kalah.
32. The account was first narrated in the now extinct *Ch'ih t'u Kuo Chi* and preserved in the *Sui-sku*, the *Pei-shih*, the *Tau-p'ing Yu Lan* and the *Wen-hsien T'ung-k'ao*.
33. For various views on the identification of Rakta-mrittika see H. Kern, *Verspreide Geschriften* vol. iii, pp. 255 ff., R.L. Mitra, *J.A.S.B.*, vol. xvii, pt. 2, p. 71, B. Ch. Chhabra, *Expansion of Indo-Aryan Culture*, pp. 20-26, N.J. Krom, *Hindoe-Javaansche Geschiedenis*, p. 73, R.C. Majumdar, *Suvarna-dvīpa*, pt. 1, p. 82-83, P. Wheatley *The Golden Khersonese*, p. 33.
34. cf Ch' t' t' an-hsiu-po-t'o-lo (Gautama Subhadra) king of kan-to-li (G.H. Luce in *Jour. Burma Res. Soc.*) vol. xiv, 1925, p. 173.
35. Some of the important sources for the history of early Sri-Vijaya are: Old-Malay inscriptions from southern Sumatra, especially from Palembang and Bangka island. (J.G. de Casparis, *Prasasti Indonesia*, II, Bandung, 1956) They were issued between 682-686. Among the Chinese materials are the works of I-tsing who in 672 sailed from Malaya to Kedah and India; the *Tse fu yuan kwei* encyclopaedia of the early eleventh century (1005-1013) with references to embassies to China between 702 and 742, and the *Hsin Tang shu* or the New T'ang History from 618 to 906 compiled in

the middle of the eleventh century A.D. The Indian and Arab sources will be referred to as they appear in the text.

- 36 G. Coedes, *Indianised States of South East Asia*, p. 84. He supports the views of N.J. Krom and F.D.K. Bosch.
- 37 J.G. de Casparis, *Prasasti Indonesia* I, p. 191; II, pp. 184-85.
- 38 B.Ch. Chhabra identifies him with Vishnu-varman of the Perak seal *Expansion of Indo-Aryan Culture*, p. 35.
- 39 F.D.K. Bosch, "De Inscriptie van Keloerak", *Tijdschrift. Bataviaasch Genootschap etc.* LXVIII (1928), pp. 1-56, de Casparis, *Prasasti Indonesia*, I, p. 102.
- 40 We have deliberately turned around the phrase.
- 41 *South Ind. Ins.*, Vol. III, Part 2, No. 84, & Vol. V, No. 468.
- 42 But, strangely, Ma Tuan-lin (Wein-hsien T'ung Kao, section 332) in connection with the question of precedence at the Chinese court records that Chu-lien (Cholas) were vassals of San-fo-ch'i (Sri-Vijaya) from 1068-1077. K.A.N. Sastri, *History of Sri vijaya*, p. 84, remarks: "This can only be explained as the result of wanton misrepresentation on the part of the envoys of Sri vijaya who perhaps represented the party that gained the upper hand for a time in that country and against whom the other side had appealed to the Chola emperor Virarajendra".
- I think the misrepresentation is attributable to the Chinese historian who decided to be partial to Sri-vijaya which, after all, maintained regular diplomatic contact with China (e.g. ten embassies in the tenth century). In latter centuries Sri-vijaya often sought validation by China, against its traditional rival East Java, Kadāram (Kedah) on the other hand was backed by the Cholas in 1068. This period was also the back-drop for the power shift from Palembang to Jambi. After defeating Sri vijaya-Palembang in 1025, the Cholas would have tended to protect the interests of their vassals while the emerging Sri-vijaya-Jambi veered towards China, sending a mission there in 1079. As the nature of Indian overlordship was always of a confederate variety, Kedah too sent a mission to China in the same year. In fact the Cholas themselves maintained friendly relations with China by sending envoys there in 1006, 1033 and 1077 although they had a strong position in the Indian ocean, the impact of which was felt by China. In 1028, the Sung emperor had complained that 'in recent times foreign shipping had rarely come to Canton' (Sung hui-yao Chi-Kao, chih kuan, 44, 3365-6).
- 43 *Ep. Ind.*, XXII, pp. 267-81.
- 44 The rich monastery Tirumangai Mannan suffered from religious persecution. There is a story that the Vaishnava Tirumangai Mannan robbed it of its valuables, including the solid gold image of the Buddha and used the spoils to renovate the Ranganatha Temple at Sri-ranganam.
- Perhaps the monastery still existed in the middle of nineteenth century and was destroyed by Jesuits in 1868. See Walter Elliot, "The edifice formerly known as the Chinese Jana pagoda at Nagapatam", *Ind. Ant.*, VII, 1878, p. 224 and K.V. Subrahmanya Aiyer, "The Larger Leiden plates", *Ep. Ind.* XXII, p. 229.
- 45 See p. 18.
- 46 Ferrand, G., "L'empire Sumatranais", p. 66.
- 47 Hirth and Rockhill, Chau Ju-Kua, pp. 25-26 and 29; also see P. Wheatley, *Golden Kheronese*, p. 63, fn. 3.

48. *Ibid*
49. Wheatley, p. 72
50. J B R A S, Vol. XX, pt. 2 (1947), pp. 117-27.
51. Wang Ta-Yuan, *Tao-i-Chih-lioh*, II recto, and Brown *Sejarah Melayu*, Chapter 8
52. See Devahuti, D., *India and Ancient Malaya*, pp. 58-61

A Note on The Cholas and Sri-vijaya

The *Sejarah Melayu*¹ (Malay Annals, lit. genealogical tree) an account of the rulers of Malacca also throws light on the Sri-vijaya background of the founder of the dynasty. O.W. Wolters offers a brilliant analysis of the intent and purpose of the genealogist-historian of the *Sejarah*.² He argues that in addition to claiming ancestry for his Sultan from the line of Iskandar Shah (Alexander the Great), the author of the *Sejarah* "wished to demonstrate that the illustrious founder of Malacca and his descendants were the divinely appointed successors of the greatest kingdom the Malays had ever known, 'Sri-vijaya', in the literal sense of the term : Sri-vijaya Palembang, the great *nagara* which had flourished from the seventh to the eleventh century, when Malayu-Jambi had taken its place...The 'history of Singapore', on the other hand, might have been fabricated as a substitute for the inglorious period when Malayu-Jambi succeeded Sri-vijaya-Palembang."³ As Wolters says, "history might be distorted, but a systematic distortion of truth rather than an irresponsible improvisation would be more convincing...As a result the past...emerges in a recognisable way, clarified rather than obliterated by his (the genealogist's) pre-occupations."⁴

The author of the *Sejarah* was also anxious to establish a family relationship between the Malay royal house and the Cholas, a dynasty powerful enough to have vanquished Malacca's idealised ancestors; such a bond, moreover would scale down the stigma of defeat. The Hindu king Shulan (Chola Rajendra I) the conqueror of Sri-vijaya-Palembang who married the daughter of his fallen enemy was thus made a worthy equal

1 *Sejarah Melayu* or Malay Annals, tr. C.C. Brown, intro. R. Roolvink, O.U.P. 1970 (first Pub. J.M.B.R.A.S., Vol. 25, Pts. 2 & 3, 1953)

2 *The fall of Sri-vijaya in Malay History*, Ch. 6.

3 *Op. cit.* pp. 80-1.

4 *Op. cit.* p. 82. We may mention here that a comparison of the *Sejarah Melayu* with the Tanjore Prasasti, the Chinese records, and some Ceylonese inscriptions brought to light by S. Paranavitana in his various studies including *Ceylon and Malaysia*, 1966 shows that the Malay genealogist preserved the main outlines of the past, maintaining the sequence but changing the significance of events by various devices permitted in the genealogists and the bard's trade.

and a Muslim by the bestowal of a wishful lineage. "He (Shulan) is according to some accounts a descendant of Raja Nushirwan Adil, son of ... Whether that is so or not is known only to almighty God." A daughter of Raja Nushirwan Adil is said to have married into the family of Iskandar Shah. The issue from the Chola Malay union, married into what the genealogist regarded an even nobler family. She was sought by the latest descendant of Iskandar. It was their grandson (the child of a subterranean princess signifying fertility, riches and power, and thus sovereignty,⁵) who as Sri Tri Buana acquired mastery over Tumasik, i.e. Singapura and whose descendants became the rulers of Malacca. There was another Malay-Tamil union according to the *Sejarah Melayu* when a Chola princess was given in marriage to the grandson of Tri Buana because "the families were of equal rank".

The repeated mention of the Cholas in different context testifies to their importance in Malay history.

What was the nature of Chola involvement in Malay affairs? So far India had been trading with Sri-vijaya without the backing of political force. But when Sri-vijaya veered closer to China, partly because of new possibilities of a profitable trade and partly because of Chinese political pressure as apparent from the despatch of embassies by Sri-vijaya to China in 904-5, 960, 961, 962, 971, 972, 974, 975, 980, 983 in the tenth century, and in 1003, India's policies, as represented by the Cholas, underwent a change probably because her trade pattern had been adversely affected. Political pressure by India would not have worked because of distance and a decentralised political system, factors, the latter specially, which did not apply to China. Chola India, therefore, appears to have found it necessary to employ military force to secure political advantage which should lead to a restoration of the earlier profile of trade in the region. Chola navy became active from the beginning of the eleventh century, Raja-raja I claiming conquest of twelve thousand islands in 1007. Further 1017, 1025 and 1068 are important dates in the spread of Chola influence in Southeast Asia.

The events of the latter two dates also affected the balance of power between Sri-vijaya and east Java. The latter's political and commercial strength were a force to reckon with even when Sri-vijaya was at the height of her power.

5 J Przulski, 'La' princess 'al' odeur de poissonnet la nagi dans les traditions de c' Asie orientale', *Etudes asiatiques*, II, 1925, pp. 265-84.

Both the Indian and the east Javanese factors political as well as economic (and in the case of India, indirectly, religious also) thus, played a very important part in establishing the 'rhythm' in Malay history, not only, 'the operation of abeyance of tributary trade with...(China).'⁶

⁶ O.W. Wolters, *The Fall of Srivijaya in Malay History*, p. 41 also p. 18

APPENDIX II

Restatement of Sri-vijaya's Decline in the Context of East Java and Thailand

The name Sri-vijaya for an empire necessarily applies to Sumatra and the Malay peninsula whether ruled over by the kings who rose, according to their inscriptions beginning 682 in Palembang, Sumatra, or by the Sailendras who appeared first in central Java¹ roughly in the second half of the 8th Century A.D. at the cost of the house of Sanjaya² and later³ established themselves in Sumatra.

Sanjaya's descendants reclaimed their heritage in central Java by 856⁴ from where they shifted their capital to east Java around 929.⁵ Their

- 1 According to R.C. Majumdar the seat of Sailendra power was on the Malay peninsula, *B.F.F.O.*, xxxiii, pp. 126-27
- 2 Whose era began on March, 18, 717, according to two inscriptions, dated 910 and 913 of his descendant Balitung
- 3 At the end of the eighth century A.D. according to K.A.N. Sastri who adduces epigraphic and architectural evidence for it *History of Srivijaya*, pp. 46 & 56. G. Coedes argues for a later date: "Origin of the Sailendras of Indonesia", p. 65, also *Indianised States of South-East Asia*, pp. 108-09 where he says that Bala-putra who after his defeat by a Sanjayan prince Pikatan in 856 (de Casparis, *Prasasti Indonesia I*, pp. 107-09 and 133 & II, pp. 224-97) moved to Sri-vijaya was undoubtedly the first Sailendra king of Sri-vijaya
- 4 When Pikatan defeated Bala-putra. They could even have done so by 820 if we interpret the Chinese evidence She-po's embassies to China in 820 and 831 — to mean that the Sivaite princes had returned to power in the centre of Java. See Coedes, *Indianised States of South-East Asia*, pp. 107-08. The empire's name, moreover, was naturally synonymous with the seat of government so that when Palembang was supplanted by Jambu, in C. A.D. 1080 owing to some upheaval, the name Sri-vijaya was transferred to the latter. Thus, in 1225, Palembang was described as a dependency of Sri-vijaya.
- 5 However, members of various families intermarried and sometimes claimed territories, by right of kinship through marriage. For example, the Sailendra Samararunga was married to Princess Tara of Sri-vijaya. The daughter of this union was married to Pikatan, a descendant of Sanjaya. The son of this union was Bala-putra who on being defeated by Pikatan, in central Java moved over to Sri-vijaya as its first Sailendra king.

The various royal families also lived in religious harmony. Many Saiva and Buddhist monuments built by their respective adherents belong roughly to the same period and vicinity. In fact, the various stages of development from Mahayana to Tantra or Vajra-yana and its syncretism with Hindu cults finally led to the cult of Siva-Buddha in Java and Bali.

dynasty lasted until c. 1222 when Angrok founded the kingdom of Singosari. With the decline of the Sailendras of Sri-vijaya in the thirteenth century, the east Javanese kingdom of Singosari (which had, in fact, contributed to it) and following it, that of Majapahit, dominated, until about the end of the fourteenth century, various states of Sri-vijaya including, according to *Nagarakritagama* of 1365, Pahang, Kelantan, Kedah and Langkasuka.⁶ However, during part of the late thirteenth and the first half of the fourteenth century, the Thais too who had become powerful following the Mongol invasion, overran a large part of Sri-vijaya, including, according to Wang Ta-yuan who wrote in mid-fourteenth century, the states of Tan-ma-ling (Tambralinga), Chia-lan-tan (Kelantan), and P'eng-heng (Pahang)⁷ and made an unsuccessful attack on Tan-ma-hsi (Tumasik, the site of Singapore). A Siamese law dated 1358, but probably from the next century cites Johore, Malacca and Malayu as dependencies of Ayuthaya. Ibn Batuta who visited the extreme north of the peninsula in c.1341-46, speaks of the king of Mul Jawa (Malay Peninsula) as being an infidel (possibly the king of Siam or his Malay representative). By 1413⁸ Paramesvara, a native of Palembang, married to a Majapahit princess had established himself at Malacca by taking China's aid and marrying a princess of Pasai to ward off the powerful Thai. At the age of seventy-two he was converted to Islam and took the name Megat Iskandar Shah. His successor revived the Sri-vijaya title of Maharaja. In 1445 Sultan Muzaffar Shah, son of a Tamil Muslim mother was elevated to the throne. Malacca's last Sultan Mahmud completed the expansion of the empire by adding Kedah and Patani.

The tradition of Hinduism and Buddhism persisted in many ways and Indian influences continued to enter the Malay peninsula as well as Sumatra through newly converted Indian Muslim merchants from

6 *Nagara-kritagama*, Trans. H. Kern, *Verspreide Geschriften* VIII, pp. 15-17; *Pararaton*, ed. N. J. Krom V.B.G., 62, p. 79.

7 Rockhill, "Notes on the Relations and Trade of China", pp. 123, 121, 120.

8 Yin-Ch'ing's evidence. See P. Pelliot, "Les grands voyages maritimes Chinois", p. 397.

Gujarat and the Gulf of Cambay and the Gulf of Mannar. Sri-vijaya became two political entities, the peninsula as the kingdom of Malacca, to enter a new chapter in its history but in smooth continuity with the past.

2

The History of Malaysia, Especially Sabah

DATUK JAMES P. ONGKILI*

I. BACKGROUND

In order to be able to examine the history of Malaysia properly, it is important, first and foremost, to understand the background of the people who made up the Malaysian society. That society was a multi-ethnic origins and each ethnic group had its distinctive place and predilection before the Second World War. Indeed by 1946 it was this multi-ethnic background which dictated the nature and course of political development that began the process of nation-building in Malaysia.

The Malay Society

The Malays were the first politically-organized indigenous people of the Peninsula by virtue of the fact that the earliest political states were founded by them. It has been aptly remarked that:

The Malays owed allegiance territorially to their sultans. Culturally their allegiance was to Islam, and more specifically to the maritime

* Lecture at the Centre for Strategic and International Studies, Jakarta.

branch of it speaking Malaysian languages and having a common tradition of culture, trade and intermarriage among the royal families, extending along the coasts of Malaya, Sumatra, Borneo and parts of Java and other islands.

Migration from Southeast Asia to the Peninsula was a common phenomenon in the days before Western imperial powers introduced the notion of fixed political boundaries. The rise of the Malacca Sultanate led to migration from Sumatra to the Peninsula. The process of migration continued throughout the succeeding centuries. Most of the Malay migrants from the neighbouring islands were easily absorbed or assimilated into the existing Malay population of the Peninsula. No doubt, this was facilitated by their cultural similarities. Their linguistic and religious affinities in particular fostered cultural adaptation, and the process was accentuated from the nineteenth century onwards when their common rural pattern of life contrasted more and more with those of the immigrants.

The traditional sultanates were often riverine centres which were largely self-sufficient and often isolated from their neighbours. Indeed, it was often only in times of war and succession dispute that one sultanate had much to do with another. It was this self-sufficiency and the compact nature of the sultanate which to some extent engendered a spirit of contentedness among many Malays until recently. Most Malays lived a simple kampung life. Despite the lush primeval jungle which always threatened to envelop their kampungs, these indigenous people were blessed by Nature with a climate and habitat which readily produced food and other basic necessities of life. It was this ease with which life could be tolerably sustained that gave not only the Malays but also the Dayaks, Melanaus, Kadazans, Bajaus and other indigenous communities time for hard work as well as leisure.

It is to be noted that this use of leisure was often misunderstood or purposefully characterized as laziness by some members of the ruling British group and the non-Malay communities. This accusation became more pronounced in the increasingly competitive world of tin and rubber exploitation of the twentieth century so that the Malays and other indigenous communities were branded as unreliable, erratic workers who supposedly looked upon wage-earning often merely as a temporary means of occupying themselves, especially if they were farmers who usually preferred to return to their kampungs for their more permanent occupations. In point of fact, there were hundreds of thousands of Malays

who proved their diligence by staying steadfastly and faithfully in their jobs and spending longer hours than others as civil servants, teachers, drivers, engine operators, and farmers in their kampungs. At all events, because far more Chinese and Indians were encouraged to come to Malaya to fill the labour needs of British Malaya, it was possible to undertake the exploitation of the riches of the Peninsula without forcing the Malays themselves to participate in the process.

The Indigenous Society of Sarawak-Sabah

While Malacca was the focus of the Malay world in the Malay Peninsula, Brunei emerged as a similar focus further to the Southeast of the Straits of Malacca. Both Sarawak and Sabah were nominally parts of the Brunei Kingdom before coming under foreign administration in the course of the 19th century.

The Brunei Sultanate shared many similarities with those in the Peninsula. The Sultan was the apex of political authority and below him there was a hierarchy of chiefs: four *wazir*, eight *cheteria* and sixteen *menteri*. Except that the titles were different Kedah, Pahang and Perak also subscribed to the multiple-four system of chiefs.

Owing to physical vastness and the absence of an efficient system of transport and communication, there was also a wide dispersal of political power in the Brunei political system. And various major chiefs wielded significant power in specific territories. This was accentuated by the decline of the Sultanate after the prosperous and notable reign of Sultan Bulkiah in the early sixteenth century.

The indigenous population of Sarawak and Sabah were more heterogeneous than their counterparts in the Peninsula mainly because a large proportion of the indigenous people were not Muslims. The indigenous communities of Sarawak comprised the Ibans or Sea Dayaks, the Bidayuhs or Land Dayaks, the Kayans, the Kenyahs and Kelabits, all of which are non-Muslim. The Muslim groups are the Kedayans, the Bisayas and a good proportion of the Melanau. In the case of Sabah, the largest indigenous groups have been the Muruts and the Kadazans (formerly known as the Dusuns). These were non-Muslims. There are also numerous groups of people who are physically and culturally akin to the Malays of the Peninsula, namely, the Bajaus, the Bruneis, the Sulus, the Illanuns, Kedayans and other smaller groups.

Although Brunei was also an important trading centre, the kingdom was situated more remotely from the commonly-used trade route between East and West Asia whereas the Peninsula was the meeting point for traders from the two regions. More frequent contacts with the external world required a higher degree of adaptation by the indigenous people. Therefore, there was greater intellectual ferment in the Peninsula-Sumatra region than in Brunei. And although Sarawak, Sabah and the Peninsula all came under official or unofficial British control in the 19th century, technological developments in the Peninsula occurred at a far faster rate. The indigenous society in Sarawak-Sabah being less exposed did not have to cope with the same challenge faced by the Peninsular Malays in the early decades of the 20th century.

The Growth of Immigrant Communities

The Chinese and Indians had been visiting the Malaysian region as early as the beginning of the Christian era; but it was only after the establishment of British control in this region that they began to come in large numbers and stay.

The Chinese who ventured to Malaysia in the early days were mostly traders who frequented Malacca, Penang and then Singapore as these entrepôts developed. Not a few decided to settle permanently and became the forefathers of the present 'Baba Chinese', especially in Malacca and Penang. The number of Chinese immigrants increased rapidly in the second half of the nineteenth century as they were attracted to the lucrative exploitation of tinbearing districts in Perak and Selangor.

From the later nineteenth century to 1933 indentured Chinese labourers were brought to Malaya in ever increasing numbers through the *sin-kheh* method of recruitment. Even during the Depression years, the number of arrivals often exceeded the number who returned to China. In Sarawak, Rajah Charles Brooke employed a basically similar method of engaging Chinese contractors to obtain Chinese labourers at the turn of the twentieth century, while in Sabah the Chartered Company made many attempts to get Chinese peasants and refugees of the 1911 Chinese revolution and 1937 Sino-Japanese war for the rubber planters and public works of the territory. By the time restriction was imposed on Chinese immigration to Malaya in 1933, the community had comprised a very significant proportion of the total population of the Peninsula, namely, well over one-third. There were far more Chinese who came and eventually settled down in Malaya than in Sarawak and Sabah.

Consequently, the political impact of the Chinese tended to be more heavily felt in the Peninsula than in Northern Borneo.

It is instructive to note that the Chinese were not only divided into different clans with their distinctive dialects but that their business activities were conducted largely along exclusive clan-dialect lines. The discipline in each clan group was often so effective that it could undercut and ruin the economic position of a rival group when it chose to do so. The majority of pre-war Chinese in Malaysia retained some links with the homeland, although such ties became increasingly loose in the course of time. By the 1930s many of those born in China had begotten children in Malaya, but many also regarded this as the unfortunate consequences of revolution, civil war and Sino-Japanese conflict in their homeland.

Although Indians came to Malaya in noticeable numbers as early as the British acquisition of Penang in 1786, it was only near the turn of the twentieth century that they began to arrive at a steadily increasing rate. The growth of the rubber industry after 1910 and the development of railways and roads in Malaya necessitated a greatly-increased labour force which the Indian immigrants helped to ease.

By 1907, the governments of the Straits Settlements and the Federated Malay States had set up an Indian Immigration Committee to take charge and to promote the immigration of Indian labour. The Committee ran an Indian Immigration Fund which financed the passage, accommodation and other expenses of Indian labourers attracted to Malaya.

The *kangany* labour recruitment system drew mainly persons from South India, such that although Punjabis, Bengalis and other North Indians also came to Malaya, the Tamils, Malayalees and Thelugus predominated among the immigrants. Eventually, four-fifths of the Indians who came to Malaya were Tamils. The largest number of Indians who came before the Japanese occupation found their way into the rubber plantations, the railways and public works of Malaya. An Agent of the Indian Government was appointed in 1923, with the consent of the Labour Department of Malaya, to supervise the employment conditions of Indian labourers. He was given legal right to visit any estate during working hours and make enquiries among labourers.

The average Indian worker stayed only for a few years in Malaya; and following the Depression years of the early 1930s, nationalist public opinion made the Indian Government impose a total ban on all forms of assisted emigration of labour to Malaya in 1938. Nevertheless, as a result of the systematic labour migration policy, the Indians comprised

15.1 per cent in 1931 and 10.8 per cent in 1947 of the total population of Malaya.

The Development of Foreign Administration

(a) Malaya

British rule in Malaya was launched when the English East India Company, in its effort to foster and protect its lucrative trade route between the Indian empire and China, obtained Penang from Sultan Abdullah of Kedah in 1786; in 1819 Stamford Raffles hoisted the Union Jack over Singapore; and by the Anglo-Dutch Treaty of 1824 Malacca was transferred to the British. The three outposts became the Straits Settlements in 1826 and formed the stepping-stones to subsequent British intervention in the Malay Peninsula. Finding these outposts a drain on its increasingly depleted coffers after the loss of its monopoly in the China trade in the 1830s, Calcutta procrastinated but eventually transferred the Settlements to the Colonial Office and they collectively became a Crown Colony in 1867. The Settlements remained a Colony until the Japanese invasion in 1941.

Although British presence in Malaya became manifest with the acquisition of Penang in 1786, it was not until the Colonial Office adopted an active 'forward' policy with effect from the signing of the Pangkor Engagement of 1874 between the Governor of the Straits Settlements and the Sultan and Chiefs of Perak that Britain intervened and proceeded to expand her imperial authority over the Peninsula.

To carry out the paraphernalia of indirect rule, Britain's colonial officials, headed by the Governor of Straits Settlements, proceeded to make arrangements which witnessed Selangor coming under British protection in 1874, Pahang accepting a British Resident in 1888, and Negri Sembilan requesting in 1889 and receiving in 1895 a British Resident. These three states, together with Perak, were grouped to form the Federated Malay States (FMS) in 1896. The FMS arrangement remained until the Japanese occupation.

The expansion of British intervention led to further extension of indirect rule when in 1909 the Anglo-Siamese Treaty stated that:

The Siamese Government transfers to the British Government all rights and suzerainty, protection, administration, and control whatsoever which they possess over the States of Kelantan, Trengganu, Kedah, Perlis and adjacent islands.

Thus Britain acquired the four Northern Malay states. Each of the four states accepted the appointment of a British Adviser with powers similar to those of the British Resident in each of the FMS. Meanwhile, Johore in the south, having lost its nominal suzerainty over Pahang and Trengganu, also gradually gravitated into British influence and control. British promise of protection came in 1885, and in 1914 a treaty provided for the appointment of a British General Adviser whose powers were again broadly similar to those of the Residents and the other four Advisers. However, Kelantan, Trengganu, Kedah, Perlis and Johore remained outside the FMS and were collectively known as the Unfederated Malay States (UFMS). The British arrangements of the FMS and the UFMS continued to be the forms by which Britain sought to implement its policies on the Peninsula until the Second World War.

(b) Sarawak

In the late 1830s rebellion broke out in Siniawan, Sarawak, against a local chief, the Pangiran Makhota. The Sultan of Brunei was unable to suppress the uprising and eventually James Brooke, an Englishman, entered the scene and helped to quell the rebellion. The result was that the Sultan of Brunei formally recognised James Brooke as the Rajah of Sarawak in 1841.

The ensuing century saw the development of a personalized and paternalistic rule which left little room for political initiative among the communities of Sarawak. The Brookes treated the indigenous people of their kingdom with a Victorian humanitarianism which, among other things, sought to insulate them from harsh treatment of the sort meted out to colonized peoples elsewhere.

Similar to British policy towards the Malays in the Peninsula, the Brookes paid considerable attention to the Malays of Sarawak. Their leaders were awarded honorific titles akin to those of aristocratic Brunei, such as Datu Patinggi, Datu Bandar and Datu Imam; and so accustomed had the Malays become to Brooke paternal treatment that in 1946, when the Rajah decided to deliver his once romantic kingdom to the British Crown, there were anti-cession protests from sections of the Malay community.

The Brookes devoted attention also to protecting the Dayaks and kindred non-Malay indigenous peoples of Sarawak. In particular, the second Rajah, Charles Brooke, spent long years as an administrator among the Ibans and firmly believed that nothing could be more unjust

than to expose his peace-loving native wards to the predatory activities of joint-stock companies, privateers and imperialist. He drew examples from the Dutch policy of native subjugation in which the Javanese were reduced to a very abused and oppressed people, being forced both to provide labour for the Government, as well as to comply with the demands of their own native chiefs. The Brookes made use of traditional native chiefs as much as the Dutch did in the Netherlands East Indies; but, being more simply paternalistic and less economically motivated than the Dutch, the Rajahs, in principle, if not in practice, continually emphasized the welfare of their Sarawak indigenous and their people.

When he succeeded James Brooke in 1868, Charles Brooke continued the protective policy of his uncle. While he was still the chief administrator under his uncle, Charles Brooke initiated a forum in which the local leaders of Sarawak could know one another and exchange views by establishing a General Council in 1867. Despite the expansion of the administration and the associative role of this Council, however, Sarawak remained politically backward.

That Brooke rule insulated the indigenous peoples of Sarawak from abuse and colonial exploitation can hardly be denied. The Malay and non-Malay peoples of Sarawak were certainly more humanely treated under their English Rajahs than were the Javanese under the Dutch 'culture system' or the Vietnamese under the so-called 'assimilation' and 'association' programmes of the French. But it can be said that the benevolent Rajahs over-protected the indigenous peoples of Sarawak: in a manner of speaking, the indigenous peoples were like birds in a golden cage, pampered, and unruffled by winds of change; but when the golden cage door was opened, first by the Japanese in 1941 and secondly by the British Government in 1946, it was found that the birds had lost the art of flying. The different communities of Sarawak were largely unharmed but they were also politically innocent under Brooke rule. Clearly, the time of nationalist awareness was yet to come.

(c) Sabah

The beginning of the end of Brunei rule in Sabah occurred in December 1877 when some sections of Sabah were ceded to Baron Von Overbeck who was acting on behalf of the British firm of Dent Brothers. In subsequent years more territories were ceded piecemeal. A limited Provisional Association was formed to exploit Sabah. Several stations were established by employees of the Association. By 1881, the

Association was able to persuade the British Government to grant a charter of corporation and Sabah came under the administration of the British North Borneo (Chartered) Company.

At a time when joint-stock companies were clearly considered anachronistic institutions, the granting of the Royal Charter to the North Borneo Company by the British Government was a demonstration of the backwardness of the territory. Nevertheless, the Charter laid down the political and administrative bases upon which the Company Court of Directors in London and their Governor and officers in Sabah should manage an area of over 29,000 square miles. The Charter, which was closely adhered to by the Company until the Japanese invasion in 1941, required *inter alia* that the Company should by degrees abolish slavery, refrain from interfering with the religion of any clan or people of the territory, develop the area, make and maintain public works, promote immigration, grant lands to investors, afford free access to British shipping, and impose no monopoly of trade in the territory.

The Chartered Company, like the Brooke Rajahs, were preoccupied with the establishment of a bureaucracy in Sabah. In this respect, the most significant provision of the Charter, insofar as the peoples of the territory were involved, was Article 9 which required that:

In the administration of justice by the Company to the people of Borneo, or to any of the inhabitants thereof, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respect to the holding possession transfer and disposition of lands and goods, and testate or intestate succession thereto, and marriage, divorce, and legitimacy, and other rights of property and personal rights.

Here at least is evidence that the territory was constituted into a political entity, separate from the Brunei Sultanate, at a period in British history when some regard for the well-being of the subject peoples, albeit paternalistic, was manifest. As the Rajahs of Sarawak were imbued with Victorian humanitarianism, so the promoters of the Chartered Company were enjoined to protect the welfare of the indigenous and other communities of Sabah from 1881 onwards. Notwithstanding that, it must be pointed out that a stable government was of paramount importance to the Company itself in its overriding effort to open up the territory and thereby attract investors, planters and speculators to Sabah. The chief aim was to establish good government in order to ensure the success of a business concern which had been launched with the blessing of the

British Government. It was principally due to this economic preoccupation that the Company Governor and his officers paid far less attention to the promotion of political education among the inhabitants of Sabah.

An Advisory Council was set up in 1883 with the aim of providing the Governor and his officers a channel of communication with the various communities in the territory. But, in practice, this Council hardly promoted political understanding among the people. Its members were composed of the higher officers of the Company, representatives of the European planters and Chinese merchant groups. Not only were all the members nominated by the Governor, but it is also significant to note that the indigenous peoples of the territory were not represented on this Council. Despite the Charter provision *vis-a-vis* the welfare of the indigenous communities, their non-representation on the Advisory Council clearly demonstrates the fact that the Company was far more interested in the economic rather than the political advancement of the territory.

At the turn of the twentieth century Company rule was badly shaken by an extended rebellion. Beginning in 1894, and led by a man of mixed Bajau and Sulu parentage called Mat (Mohamed) Salleh, the revolt intermittently erupted in the East and West coasts as well as in the interior of Sabah until 1900 when the rebels were finally defeated. Although it is obvious that Mat Salleh and his followers exhibited a strong dislike for the Company Government, especially towards the end of the rebellion, it is also difficult to overlook the fact that they were greatly encouraged by the acquisition of loot and booty in the towns which fell to rebel hands. It is an interesting speculation that Mat Salleh could have been the first patriot of Sabah. Thus far, however, there is scant evidence to support such a noble contention; and although it is possible that he might have imbibed the revolutionary spirit of the Filipinos against their Spanish colonial rulers at the time, the available evidence points more plausibly to the fact that Mat Salleh was nursing a personal grudge against the Company Government which ignored him and later treated him arrogantly. Mat Salleh did not have a political, let alone a nationalist, plan for Sabah; and proud as he and his followers were, his career could not have been any nobler than that of Robin Hood and his merry men.

For its part, the Company fought determinedly to ensure the stability which it perennially sought in order to make Sabah an attractive area for

investment. In 1912 a Legislative Council was established to replace the Advisory Council. All nominated, the members of the new Council comprised official members, representatives of the European economic interests, and a representative of the Chinese community. While the Chinese representation was later increased to two members, the Council again included no representative of the indigenous peoples of the territory. In any event, despite the change in its name, the new Legislative Council remained largely advisory in practice. It functioned as a source of information on the economic temperament and development of the territory for the Governor and the Court of Directors rather than as a training ground for local leaders towards the eventual self-government of Sabah. The Legislative Council existed uneventfully and apolitically until the Japanese invasion in the late 1941.

An interesting experiment in local government was attempted in 1936. A local authority was formed by combining villages in the Bingkor area of the Interior Residency for administrative purposes. The Committee formed to run the day-to-day affairs of the authority was led by O.K.K. Sedomon bin Gunsanad. Initially the authority functioned promisingly; but lack of financial support and experience beset its native leaders who were expected to rely entirely upon the meagre revenue of the poor Bingkor area for the implementation of their projects and local authority services. Ultimately the experiment failed, thereby demonstrating the impossibility of initiating even grass-root political education successfully without the long-term assistance of a governing Company disposed towards the granting of eventual self-government for Sabah.

Whereas the Brooke Rajahs at least repeatedly stated that it was their intention to lead the people of Sarawak to self-rule and attempted to substantiate their pledge by granting the 1941 Constitution to their subjects on a silver platter, the Chartered Company never in their sixty-year rule indicated such a wish for the people of Sabah. Undisturbed by other imperial powers, thanks to the British protectorate of 1888, the Company portrayed itself by 1941 as a management concern which to all intents and purposes was happy to continue to husband Sabah as its economic domain well into an indeterminate future.

II. THE POST-WAR PERIOD

The history of postwar Sabah, particularly from 1946 until the formation of Malaysia in 1963, has been closely related to that of

post-war Sarawak. Thus in the earlier portion of this article, Sarawak is mentioned and included in the discussion in order to give a better perspective of the post-war developments in what later became East Malaysia.

Political-Constitutional Developments in Sarawak and Sabah (1946-1961)

Unlike Malaya which experienced the unfolding of the immediate post-war years with keenly-received and widely-debated constitutional and political developments, Sarawak and Sabah emerged from the Second World War rather uneventfully and remained apolitical dependencies for long years after 1946. In a significant manner, the lack of political response in post-war Sarawak and Sabah was the logical consequence of pre-war policies in the two territories. The paternalism of the Brooke Rajahs and the commercial considerations of the British North Borneo Chartered Company had left the two areas effectively insulated from the spread of nationalist ideas in Southeast Asia. It was principally due to this apolitical historical background that both Sarawak and Sabah were easily acquired and turned into Crown Colonies by Britain in July 1946.

Britain's motives for acquiring Sarawak and Sabah after the Second World War were not very dissimilar from those which prompted her to regain her pre-war hegemony over Malaya and Singapore in 1946. Britain had indirectly but effectively established her imperial influence in Northern Borneo during the Brooke rule and Chartered Company administration which lasted until the Japanese invasion in 1941. As in Malaya, Britain worked for the establishment of a post-war position of dominance in Sarawak and Sabah. For economic and strategic reasons, Britain was prepared to add new acquisitions to her remaining dependencies. In the course of rearranging British priorities in Southeast Asia, Sarawak and Sabah became His Majesty's new Crown Colonies in 1946.

Sabah received its status of Crown Colony with hardly any dissenting voice. Relative isolation from the outside world and lack of educational facilities during the pre-war period accounted for the inability of most people in Sabah to comprehend the change in their status from that of inhabitants of a mere British Protectorate to that of a directly-governed Crown Colony in 1946. It was on 10 July, 1946 that Britain passed the North Borneo Cession Order in Council which provided that an

agreement had been made between the Secretary of State for the Colonies, on behalf of his Majesty, and the British North Borneo Company, whereby the Company had transferred and ceded all its rights, powers, and interest in the territory with effect from 15 July, 1946, and that it was therefore ordered that the State of North Borneo be annexed to and form part of His Majesty's Dominions, and should be called, together with the Settlement of Labuan, the Colony of north Borneo. On 15 July 1946 in the presence of, among others, Malcolm MacDonald who was Governor-General of the Malayan Union and Singapore, the new Colony of North Borneo was proclaimed in Jesselton.

As Sabah passed on into the 1950s, the tenor of life was characterized by the preoccupation with 'the peace, order and good government of the Colony'. By 1956 the administration took pride in the fact that 'the Colony maintained its enviable record of freedom from political strife and violence'. Yet, the irony of history had also ensured that such 'freedom' meant that Sabah was far away from freedom from Colonial rule. The transfer to the Colonial Office in 1946 had helped to stem post-war social, economic and administrative dislocations caused by the Japanese Occupation in Sabah; but, beyond that, the territory had little political character, inasmuch as the meticulous application of 'peace, order and good government of the Colony' rendered the growth of political awareness excruciatingly slow among the people of Sabah.

British Colonial rule lasted from July 1946 to September 1963 in both Sarawak and Sabah. This period of seventeen years witnessed an era of benevolent administration in each territory. To a considerable extent because of the lack of political development in each of the two territories until the Second World War, progress along nationalist lines after 1946 was a slow process. The Colonial Governments of Sarawak and Sabah, above all else, wished to rehabilitate and reconstruct the economies of the two territories which were ravaged by the War. It was clearly recognised that social and welfare services were the inseparable concomitants of any stable and expanding economy; and, accordingly, such services were given emphasis at the same time as the principal products of Sarawak and Sabah, such as rubber, oil, pepper, copra, timber, sago and tobacco, were speedily rehabilitated. In many ways, Sarawak and Sabah under colonial rule for seventeen years underwent the execution of British policies not unlike those which were carried out in the Peninsula under the British in pre-war Malaya.

As in pre-war Malaya, the peoples of Sarawak and Sabah tended to live in plural societies for long years after 1946. It was not the intention

of Whitehall to foster political awareness or nationalistic ideas among the peoples of Sarawak and Sabah throughout the 1950s, notwithstanding the fact that Britain was aware that she would have to relinquish her sovereignty over the territories in the foreseeable future. The nationalist movement and successful demands for political independence in Southeast Asia made it plain that, at best, Britain could only hope to delay the rise of nationalist sentiment among the peoples of Sarawak and Sabah. At all events, Britain reasoned, as she did with respect to Malaya and Singapore, that if the parting of the ways must come with the Borneo territories it was in the best interests of the British Government and people that such a break should eventuate in an amicable manner.

After being administered by the Governor with the aid of an Advisory Council for four years, Sabah received a new Legislative Council in October 1950. The new legislative body was, however, dominated by official members: 'The Legislative Council consists of the Governor as President, three ex-officio Members, namely the Chief Secretary, the Attorney-General and the Financial Secretary, nine Official Members and ten Nominated Members'. At the same time, an Executive Council was established which consisted of the same three ex-officio members, two other official members and four nominated members. The latter Council was 'consulted by the Governor on all questions of importance'.

The constitutional arrangements in Sabah throughout the 1950s were more colonial than those in Sarawak. For a full decade until 1960 the British officials dominated the Legislative and Executive Councils. The Sabah Colonial legislature advised and assisted the Governor who made 'laws for the peace, order and good Government of the Colony'. Local councils were introduced in Sabah only from 1952 onwards, with functions similar to those in Sarawak but with the exception that the Sabah local councils did not undertake responsibility for education. By 1956 it was explained:

Wide powers are conferred upon these Authorities, which have control over their own finances and may levy rates and assess and make by-laws for such purposes as the improvement of agriculture and animal husbandry, the control of buildings, the provision and maintenance of markets and the safeguarding and promotion of public health.

There was thus an attempt to familiarize the people with ideas of self-government at grass-root level as in Sarawak. Yet it is well to note that

the local councils in Sabah never became sub-electoral colleges for indirect elections to a territorial legislature as in Sarawak. Throughout the 1950s, the members of the district councils as well as the officials in the Legislative and Executive Councils of Sabah were all nominated by the British Governor with the aid of his officials. In simple language, colonial rule was effective in theory and in practice in the Sabah of the 1950s.

It was only in 1960, just prior to the announcement of the Malaysian proposal, that constitutional changes were introduced which provided for a small unofficial majority in the Legislative Council of Sabah. There were then the Governor as President, four *ex-officio* members, three official members and 12 nominated members. However, the Executive Council remained largely in the control of official members who numbered six as against five nominated members. While district and Divisional council elections were held in Sarawak on a territory-wide scale in 1959, the electoral process was never introduced in Sabah before December 1962 when Sabah's participation in the formation of Malaysia was already a foregone conclusion.

Northern Borneo and Malaysia

Tengku Abdul Rahman's Malaysia proposal in May 1961 was initially greeted with opposition by leaders in Sarawak, Brunei and Sabah. One main reason for this adverse response was the fact that the three territories had been conditioned for long into thinking that their common colonial rulers, the British, would eventually lead them to sovereignty and independence. The failure of the Bornean federation proposals of the 1950s itself was evidence that Sarawak, Brunei and Sabah each manifested an inclination to hope and work for its own separate independence, even if the ideal of nationhood might take the year 2000 or after to achieve. With such a frame of mind, the announcement of the Malaysia proposal not only took the leaders of the three territories by surprise but also elicited strong reactions against the proposal from some of them. A number of them formed a United Front; and the main personalities involved, A.M. Azahari of Brunei, Ong Kee Hui of Sarawak, and Donald A. Stephens of Sabah, declared on 9 July 1961 that 'any plan in accordance with the pronouncements made by Tengku Abdul Rahman in Brunei and Sarawak would be totally unacceptable to the people of the three territories'.

Soon after his luncheon speech in May 1961, Tengku Abdul Rahman had paid a familiarization visit to Brunei and Sarawak in the course of which he endeavored to explain the Malaysia proposal. It was not an easy task, however, to project such a federation proposal to peoples who were still largely unschooled in the art of party politics and the foundations of nationhood. Whereas political consciousness had developed rapidly in Malaya and Singapore during the 1950s, the post-war colonial period in Sarawak and Sabah until 1963 had tended to delay the inculcation of political attitudes and nationalist fervour necessary for the peoples of the two territories to comprehend adequately the import of freedom and independence.

At all events, a series of developments ensured the continuance of attention and debate on the Malaysia plan. The leaders of Northern Borneo largely took their political cues from their British rulers, initially at any rate. But, for the reasons stated above, their British rulers appeared to be increasingly favourable to the formation of Malaysia. It was the impression given by the British officials that, notwithstanding the fact that the prior establishment of a Bornean federation comprising the three territories was an alternative not to be completely ruled out, the Malaysia proposal was a constructive one; and that the crucial factor was proper timing in forming the larger federation: 'The quicker you try to do it, the more difficult it would be for the Borneo territories because they feel they lag behind Singapore and the Federation politically'. The United Front leaders themselves were aware and perturbed by the political handicaps of their territories. It was for this reason that they implored:

We believe that it is virtually important that the constitutional advance in the three territories should be speeded up and with this in view elections should be held in the territories, where an undertaking has been given by the Governments concerned so that the legitimate aspirations of the people for political advancement can be satisfied.

Britain for her part had become resigned to the reality of the situation that Malaya had achieved independence, Singapore had been increasingly resolute in its demand for self-rule, and that the Northern Borneo territories would be following the same path to political emancipation either of their own volition or with the aid and moral support of friendly neighbours. The British decided to ensure that the parting with the Borneo territories would be on good terms so that the

departure would be 'without endangering their stand on self-determination in Africa and elsewhere in the world'. It appeared that colonial rule was inevitably coming to an end in Northern Borneo, at any rate in Sarawak and Sabah.

While the Borneans were progressively gaining in political understanding and style as the Malaysia proposal increasingly became the topic of conversations among the man-in-the street and *kampung*, their leaders were also gaining expertise in negotiations as they sat with their Malayan and Singapore counterparts in discussing the Malaysia plan.

Politicization took place gradually in Sarawak and Sabah during the formation of Malaysia. Nevertheless, the federation proposal led to the formation of political parties which took stands on the Malaysia issue. Before the Malaysia proposal was made in May 1961 there were three parties in Sarawak, the Sarawak United People's Party (SUPP), the Party Negara Sarawak (PANAS), and the Sarawak National Party (SNAP); Azahari's Parti Rakyat existed in Brunei; and there was none in Sabah. Asked why he did not form a political party, Donald Stephens replied only months before the Malaysia plan was propounded, 'I want to learn from the mistakes of SUPP and PANAS first'. At that time the two Sarawak parties were virtually cutting each other's throats in forays and political mudslinging. But the Malaysia proposal did trigger decolonization and brought about the advent of party politics in Northern Borneo.

By the first half of 1962 five political parties had been formed in previously apolitical Sabah. The United National Kadazan Organization (UNKO), led by Donald Stephens, was formed in August 1961. As the name implies, its majority support came from the Kadazans of the West Coast and interior Residencies. Soon after its formation the UNKO decided to support the Malaysia proposal. The United Sabah National Organization (USNO) appeared next in December 1961 and was led by Datu Mustapha bin Datu Harun. It commanded support largely from the Muslim groups, and like the UNKO it soon decided to support the Malaysia plan with some reservations. In 1962 several parties emerged. Among these was the United National Pasok Momogun Organization (Pasok Momogun) which wanted self-government before Sabah joined Malaysia and gained support from the interior indigenous people. It merged with the UNKO in June 1964 to form the United Pasokmomogun Kadazan Organization (UPKO). The Chinese of Sabah formed the

Democratic Party and United Party which, after merging and undergoing two changes of name, finally became the Sabah Chinese Association (SCA) in May 1965. The Chinese parties at first opposed Malaysia but, like all the political parties of Sabah during the formation of the federation, they soon decided to support the proposal on condition that certain safeguards were acceded to.

In addition to the mainly Chinese-supported SUPP which was inaugurated in June 1959, the largely Malay PANAS which was brought into being in April 1960, and the SANP which began as a pre-dominantly Dayak-based party in April 1961, new parties also emerged in Sarawak in the wake of the Malaysia Plan. The Barisan Raayat Jati Sarawak (BARJASA) was formed in December 1961 with Malay and Muslim Melanau support. The conservative well-to-do Chinese led the formation of the Sarawak Chinese Association (SCA) in July 1962. And in August 1962 the Party Pesaka Anak Sarawak (Pesaka) came into being with the principal support of Ibans and other Dayaks in the Third Division. With the exception of the SUPP, which argued for Sarawak independence first, all these parties in time decided to support the Malaysia proposal. It may be mentioned, however, that while all the parties in Sabah formed a pro-Malaysia grand coalition, the Sabah Alliance, in August 1962, the parties in Sarawak only succeeded in establishing a similar coalition, the Sarawak Alliance, in January 1963. The SUPP remained on the opposition side until 1970.

The significant point is that the Malaysia proposal engendered the development of political thinking in Northern Borneo. The formation of political parties fostered the articulation of political preferences and enabled the leaders of the Borneo territories and their counterparts from Malaya and Singapore to identify and give adequate consideration to the major problems which had to be solved or provided for in the course of establishing a new nation that was Malaysia. Concurrently with the spread of political awareness, the Malaysia proposal fostered the development of nationalist consciousness among an increasing number of people in Sarawak and Sabah. The idea of belonging to an independent nation, Malaysia, an idea which had always been the core of nationalism, gradually gained currency and accounted for the willingness of increasing numbers of people in Sarawak and Sabah to look favourably at and in the end to accept the Malaysia proposal.

The formation of Malaysia took twenty-eight months, from May 1961 to September 1963. But, in effect, Malaysia was basically an enlargement of the Federation of Malaya. Although substantial state autonomy was

accorded Singapore, and conditions and safeguards were agreed upon to satisfy Bornean demands, the three new areas became additional states of fundamentally the same Federation which was renamed Malaysia. The Malaysia Agreement provided for a series of adaptations of and additional provisions in the existing 1957 Federation of Malaya Constitution rather than the actual framing of an entirely new document. Thus the Federal Constitution of Malaysia was in content to a great extent the same as the 1957 Federation of Malaya Constitution. While Singapore became a state of the enlarged Federation when Malaysia was inaugurated on 16 September 1963, Tengku Abdul Rahman's wish had been almost completely fulfilled: 'If the three Borneo territories are included in the Federation, it will become 14 states'.

Sabah in Malaysia, 1963-1981

Sabah joined Malaysia in 1963 for political survival and economic progress. These overriding and closely inter-related reasons emerged again and again during the negotiations to form Malaysia. Sabah could have opted for political survival on her own by gradually working for her own separate independence from Britain; and indeed many of the local leaders were working towards this separate goal for some years before the Malaysia proposal was put forward.

However, the political realities in Southeast Asia and within Sabah itself were discouraging. There was constant war going on in Indochina. Political instability in neighbouring independent countries like Indonesia and the Philippines appeared to be worsening rather than abating. Should the British really leave at that time, Sabah would have been in a quandary on her own. Sabah had to seek protection from an ally, and the immediate solution came in the form of Malaysia.

To make matters worse, Sabah was not only devoid of defence mechanism but was also new in politics, particularly international politics. As has been shown earlier, it was only with the coming of the Malaysia proposal in the early 1960s that political leaders really mobilised themselves into political parties and argued for political rights and socio-economic advancement.

The Malayan leaders knew these overriding worries among the Borneo leaders; and it was not therefore surprising that when the Malaysia Agreement was signed in 1963, it contained explicit provisions for defence and economic assistance to Sabah. Most of the demands for conditions and safeguards as contained in Sabah's "Twenty Points"

were acceded to by Kuala Lumpur. Indeed one of provisions of the Malaysia Agreement stated that the Federal Government would assist Sabah with at least \$ 200 million during the first five years after joining Malaysia. In those tightfisted colonial days, that amount of funds was very substantial and appealing to the Sabah leaders who were keen to develop their state socially and economically.

From hindsight, it can be said that Sabah made the right decision by joining Malaysia — even if she, like Sarawak, partly stumbled into it. Externally, Malaysia has vindicated her profession to defend and protect every part of the federation, including Sabah, over the last eighteen years. The *Angkatan Tentera Diraja Malaysia* (Royal Malaysian Armed Forces) have included Sabah in their overall defence planning, strategy and mobilisation. The *Polis Diraja Malaysia* (Royal Malaysia Police) together with its Special Branch and various components have ensured peace and order and fostered stability in the country.

Socio-economically, Sabah has fared well within Malaysia. The promise of \$ 200 million was fulfilled soon after the inauguration of Malaysia. Sabah had budgeted for a Six-year Development Plan (1965-70) totalling \$ 436 million. But when the First Malaysia Plan (1966-70) was initiated a little later, it was disclosed that of the \$ 436 million at least \$ 373.6 million would be financed by the Federal Government. These figures become significant when it is borne in mind that the last Sabah development plan before the state joined Malaysia, namely the colonial development plan of 1960-65, proposed the expenditure of only \$ 150 million.

During the eighteen years that Sabah has been a part of Malaysia, the socio-economic development allocations have steadily increased. In the Second Malaysia Plan (1971-75) Sabah was allocated \$ 756.4 million, that is to say about double the allocations under the First Malaysia Plan. Under the Third Malaysia Plan (1976-80), Sabah was originally allocated double that of the Second Malaysian Plan, \$ 1,452 million. However, when the new Berjaya Government took over in April 1976, it accelerated the pace of socio-economic development in Sabah to such an extent that the Federal Government granted an additional \$ 1,300 million, an increase of nearly 100% over the original Third Malaysia Plan allocation or nearly 200% increase over the Second Malaysia Plan.

Taking into consideration the socio-economic development performance of Sabah during the last five years, when the state government achieved 90% implementation success according to the

Prime Minister's Department computer in Kuala Lumpur, the state has been given further increased allocations under the current Fourth Malaysia Plan (1981-85), namely \$ 3,220 million. This figure for Sabah is the second highest allocation among the thirteen states of Malaysia under the current five-year plan. Even allowing for depreciation in the value of the *ringgit* and escalation in prices over the years, that sum of \$ 3,220 million is phenomenal compared to the last colonial development plan allocation of \$ 150 million before Sabah joined Malaysia.

Thus, socio-economically, Sabah has been achieving progress over the last eighteen years largely through the four five-year Malaysia Plans. Of course not all the allocations came from the Federal Government, and in fact an average of about 45% of the total funds are usually contributed by the state. But through co-operation, co-ordination and good implementation Sabah has experienced nearly two decades of socio-economic progress and increased political stability.

Without political stability it would be difficult to achieve any progress. This has been true in the case of Sabah. During the 60-year Chartered Company Rule, the Second World War and Japanese Occupation and the seventeen years of post-war colonial rule, there was no political stability in Sabah because there was really no political freedom to speak of and any seeming stability was imposed from above by virtue of colonial rule. Administrative control of the direct and indirect rule types that Rupert Emerson described vividly in his book, entitled *Malaysia*, about the Dutch in Indonesia and the British in Malaya in the 1930s, was the order of the day and the custodian of "peace, order and good government" in Sabah until the state joined Malaysia.

Since joining Malaysia in 1963, Sabah has become politicised through the introduction of the ballot box, democratic Malaysian and Sabah State Constitutions, the adoption and practice of a cabinet system of government as well as several general elections which have been held over the past eighteen years.

The political parties which emerged during the formation of Malaysia in the early 1960s were the precursors to later ones that ensured the continuance of party politics in Sabah. The state had its first experience at the polls when district council elections were held in 1962 to elect members to the Sabah Legislative Assembly by an indirect method. The first state direct elections were held in 1967, followed by three other state-wide polls in 1971, 1976 and the latest one in March 1981. After each state general elections the winning political alliance or party forms

the new cabinet government in Sabah. Following the recent poll, Sabah is now under its Sixth Legislative Assembly.

The government in Sabah is headed by the Yang Dipertuan Negeri (State Governor) as the constitutional ruler. He acts on the advice of the Chief Minister who is the chief executive in the State. The Chief Minister heads a State Cabinet of not less than five and not more than nine Ministers including himself.

Broadly speaking, there have been two administrations in Sabah since the state joined Malaysia in 1963. The first administration was the Sabah Alliance government which was in office for thirteen years from 1963 until it was defeated at the polls by Parti Berjaya in 1976.

It can be said that this first administration was greatly handicapped at the beginning inasmuch as it took over from the British in 1963 without much experience and wherewithal. The post-war British colonial government in Sabah made little or no preparation for Sabahans to take over when they went. When the Sabah Alliance took over there was a lot of trial-and-error in the administration. Lack of political tradition to go by, educational shortcomings among those who came up as pioneer leaders, and the temptations of office in a state where the natural and economic resources were substantial all compounded to beset the Sabah Alliance government with increasing problems.

Under the Sabah Alliance government there was socio-economic development, particularly because the successive First and Second Malaysia Plans discussed earlier provided ample allocations for development. However, lack of long-range integrated planning and preoccupation with extra-governmental activities among the leaders made Alliance development efforts haphazard and spasmodic. Adverse public opinion and an increasingly critical electorate were met with Alliance coercion and intimidation. Many people became political detainees in the main state prison at Kepyayan. The upshot was that at the April 1976 state elections the Sabah Alliance lost to the newly-formed Parti-Berjaya.

The second administration under Parti Berjaya has ruled Sabah for the past five years. It has stepped up socio-economic development to the extent that the allocations for the Third Malaysia Plan (1976-80) were almost doubled by the Federal Government; and notwithstanding that, Sabah achieved 90% project implementation performance over the plan period. As a result of its good performance over the past five years,

Berjaya was returned to office with an overwhelming majority at the recent March 1981 state elections. In 1976, Berjaya won 28 seats and the then ruling Sabah Alliance won 20 seats. In the recent 1981 elections, Berjaya won 44 seats while the opposition parties obtained only 4 seats.

One of the important differences between Parti Berjaya and the erstwhile Sabah Alliance is that Berjaya is a multi-racial party while the Alliance was a coalition of three communal parties as discussed earlier. Berjaya represents all the ethnic groups in Sabah in one multi-racial party while the Alliance comprised a delicate balancing of communal party representatives who cherished their own communal interests more than their membership in the Alliance. In terms of nation-building and the fostering of a national identity, Berjaya is one step ahead in that it has done away with the communal parties of the former Alliance and established a single multi-racial party of the people of Sabah.

Having received a strong and fresh mandate at the recent elections, Parti Berjaya is set for another five years in office. The party has short-term, medium and long-range integrated development plans for Sabah. The \$ 3,220 million Fourth Malaysia Plan (1981-85) allocations for Sabah have been the result of financial and fiscal negotiations between Berjaya and the Federal Government. The Fourth Malaysia Plan coincides with the next five years of Berjaya in office; and it is anticipated that by 1986 Sabah's second administration since gaining independence through Malaysia would have visibly transformed the state into a modern society.

Sabah as Intermediary State

During the long period of colonial rule from the last century until 1963, Sabah had not played much of a role other than the producer of raw materials for the economy of Britain and other industrialised countries. Sabah was undeveloped for long years even after the Second World War, largely because the colonial economy persisted for as long as the metropolitan power was in control of the territory.

Since Sabah joined Malaysia in 1963, there has been an opening up of the state as it were. The economy expanded, particularly with increased volume of timber exported, the beginning of state-owned oil palm plantations, the planting of cocoa and the increase in fishery and prawn production. The discoveries of copper and petroleum have also helped to boost the size of the state economy, resulting among other things in the keenness of setting up industrial joint-ventures in those mineral products.

Today the Berjaya Government is emphasising the development of greater and more diversified agro-based and timber-based industries to the extent of processing the resources locally instead of exporting raw materials. The same is being done with the petroleum, copper and other mineral resources of Sabah.

With all these changes in the state economy, Sabah can play a greater role among the surrounding areas. There should be more relaxed economic relations between Sabah and the Indonesian towns in Kalimantan, Sulawesi, Java and Indonesia as a whole. Throughout our long histories Nusantara and the Malay world as a whole have had trading routes and economic links.

The imperial and colonial periods, cut off those traditional trading and economic links for centuries. But, today, we have begun to re-establish patterns of trade and economic exchanges. The setting up of ASEAN has helped greatly in this regard. Our ideal, among other things, is freer and freer socio-economic relations in ASEAN. In this regard, therefore, Sabah has endeavored to play an intermediary role in recent years. A good example has been the common front in fixing timber prices among Indonesia, Sabah, and Malaysia as a whole *vis-a-vis* the buyers like Japan, Korea, Australia and others.

As our respective economies continue to industrialise, it is almost inevitable that there should be greater consultation, rationalisation, and common approach and front on various economic matters. We should shed our colonial legacies of economic compartmentalization, excessive tariff protections and cartel dealings. Such measures are cut-throat means that would only hurt us all if pursued to its illogical conclusions. What we should do, and do rapidly, is known each other more, break up completely the colonial compartmentalizations that persist without us noticing them, and open our economic and trading doors to each other freely. Sabah, for its part, has begun to do so; and she hopes to be the intermediary state among the ASEAN countries in the years to come.

PART II

**POLITICAL AND CONSTITUTIONAL
DEVELOPMENTS IN MALAYSIA**

3

Politics and Parties in Malaya

K.P. KESAVA MENON*

INTRODUCTORY

A new Malaya has emerged out of the last world war. Although much change is not noticeable in the physical appearance of the country, those who are acquainted with pre-war Malaya will hardly recognize it in its new political and social garb. The chaos and confusion that entered in some parts of the country after the capitulation of the Japanese have not yet completely disappeared. It was hoped that the end of the world war would see Malaya on the road towards peaceful progress. But the country is passing through a very critical phase in her history at the present time. Rebel activities hold out a constant threat to the country's security. Innocent people are being mercilessly murdered. Bandits are roaming all over the country. Emergency laws are being freely invoked to meet the unprecedented situation. The authorities are straining every nerve to restore peace in the country. Yet peace is not in sight. What a contrast to the peaceful Malaya of pre-war days!

Formerly, Malaya consisted of the Colony of the Straits Settlements of Penang, Malacca and Singapore, the Federated Malay States of Perak,

* Editor, Mathurbhumi, Calicut.

Selangor, Negri-Sembilan and Pahang and the Unfederated States of Johore, Kedah, Kelantan, Trengganau and Perlis. The Colony of the Straits Settlements was directly administered by the British through a Governor. In his capacity as High Commissioner, he exercised his functions through the British Resident in each of the four Federated States. With regard to the Unfederated States in Malaya, he exercised his function as High Commissioner through the Adviser in each State. In the Colony, legislation was enacted by the Legislative Council of the Straits Settlements and in the Federated Malay States by the Federal Government. The Unfederated States had each a State Council which enacted the legislation for the State.

With the Japanese occupation of Malaya began the iron rule of a ruthless military power which brought about a sort of artificial uniformity in the administration of the country. There was a rapid growth of political feeling which never existed before. But this feeling had to be suppressed as it could not be given expression to. There was a sign of relief when the news of the Japanese capitulation reached Malaya about the middle of August 1945. People rejoiced and thought that freedom and plenty would return to Malaya with the defeat of the Japanese. But they were disappointed. Industrial unrest and political terrorism began to sweep over the country with increasing intensity after the reconquest of Malaya by the British.

It was in the midst of this confusion that the British Government sent to Malaya Sir Harold Mac Michael as Special Representative of His Majesty's Government, 'to invite each Malay Ruler's co-operation in the establishment of fresh constitutional organization of Malaya intended to ensure and facilitate the progress of the people of the country towards unity and ultimate self-government within the British Empire.' It was considered necessary that the then existing system of government had to be changed. In view of the increasing complexity of the modern administrative, economic and social developments, there was need for a close political integration of the many separate units of Malaya. So it was proposed that: (a) Singapore, being a centre of entrepot trade on a very large scale, should, at least for the time being, be made a separate Colony; (b) the Settlements of Penang and Malacca should be administered with the nine Malayan States in a Malayan Union; and (c) a form of common citizenship to include all those irrespective of race who regarded Malaya as their true home and the object of their loyalty must be established.¹

These proposals, excepting the question of common citizenship, were given effect to on the termination of the Military Administration in Malaya on 1 April 1946. The reforms, however, were not favourably received by the people as a whole. The separation of Singapore from the mainland was seriously objected to by certain sections and the creation of the Malayan Union was bitterly attacked by the Malays in all parts of the Peninsula, on the ground that the country would be dominated by non-Malays. Protracted negotiations followed between the representatives of the Government and the Rulers of the Malay States and the Malay leaders as a result of which substantial agreements were arrived at on major issues.

Accordingly, fresh arrangements were made for the government and administration of the Malay States in conjunction with the Settlements of Penang and Malacca, Singapore having been already made a separate Colony. Agreements were entered into on 21 January 1948 by the British Government with the Rulers of each of the Malay States severally (called the State Agreement) and further with all of them (called the Federal Agreement). That is how the Federation of Malaya came into existence on 1 January 1948.

Before proceeding further it will be advantageous to give a brief outline of the main features of the constitution of the Colony of Singapore and the Federation of Malaya.

The Governor of the Colony is the administrative Head of the Colony of Singapore. There is a Legislative Council consisting of the Governor as President and twenty-two other members, nine of them being officials and 13 non-officials. Of the unofficial members four are nominated by the Governor and nine elected as follows:—

Six are elected by territorial and communal constituencies and the remaining three by the European, Chinese and Indian Chambers of Commerce. Voting is by universal adult suffrage of persons who are British subjects above the age of 21 years.

The Colony is governed on behalf of the Crown by the Governor assisted by the Executive Council.

The Governor in exercise of his powers and authority has to consult the Executive Council. But he is not bound to follow their advice and may even act in opposition thereto.²

There is in and for the colony a court of unlimited civil and criminal jurisdiction called the Supreme Court which is a Court of Record consisting of a High Court and a Court of Appeal.

CONSTITUTION OF THE FEDERATION OF MALAYA

We will now turn to the constitution of the Federation of Malaya.

The Central Government of the Federation of Malaya comprises a High Commissioner, a Federal Executive Council and a Federal Legislative Council. In each Malay State the Government consists of the Ruler of the State, a State Executive Council and a Council of State with legislative powers. Similarly, in each of the Settlements there is a Settlement Council with legislative powers.

The Federal Executive Council consists of the High Commissioner, the Chief Secretary, the Attorney-General, the Financial Secretary as ex-officio members, four official members and seven unofficial members.

The Federal Legislative Council consists of the High Commissioner as President, three ex-officio members, eleven official members, and fifty unofficial members, nine Malay Presidents of the Councils of State and one Representative of each of the Settlement Councils. The unofficial members are nominated to the Council by the High Commissioner to represent groups, interests, and activities. It is intended that nomination should at an early date give place to a system based on election. The allocation of seats would give Malays twenty-two seats, Chinese fourteen, Indians five, Europeans seven, Ceylonese one and Eurasians one. It should not be forgotten that nine Presidents of the Councils of State will always be Malays.

Just as in the Colony of Singapore, there is, for the Federation also, a court of unlimited civil and criminal jurisdiction called the Supreme Court of the Federation of Malaya, consisting of a High Court and Court of Appeal.

There is a State Executive Council and the Council of State with legislative powers in each State. The State Executive authority which will be exercised by the Ruler of each State will extend to all matters which are not included in the sphere of Federal authority.

The Council of State may pass laws on every subject other than those in respect of which the Federal Legislative Council has power to pass laws. There is also a Council in each Settlement with similar powers and functions.³

The qualifications for Federal citizenship have now been made clear. Malays who are the subjects of a Ruler of any State are automatically

Federal citizens. A large number of non-Malays born and permanently resident in the Federation are also Federal citizens by operation of law. Provision has also been made for any person who is over 18 and who is not already a Federal citizen to become one by applying for a certificate of citizenship provided he fulfils certain conditions.

THE COMMISSIONER-GENERAL

The policies of Government as between the Malayan Union and the Colony of Singapore are harmonized and co-ordinated by the Commissioner-General. Besides the Malayan units and Singapore, other territories such as Sarawak and British North Borneo also come within the sphere of his jurisdiction. The Commissioner-General will not have any direct administrative functions. But he will have the power of co-ordination and direction and also power to convene conferences of Governors whenever occasions arise for the same.

THE COMPOSITION OF THE POPULATION OF MALAYA

It will be useful to know something about the composition of the population of Malaya⁴ in order to appreciate the post-war politics of the country. The population of Malaya is 6,034,840 according to the latest official estimate. Out of a population of 5,051,579 in the Federation of Malaya 43.7% are Malays, 38.6% are Chinese, 11% are Indians, 5.4% are Malaysians and the remaining consist of Europeans, Eurasians and others.

The population of Singapore is 983,261. It has increased under the war but its composition remains basically the same. Of the total population 77.5% are Chinese, 7.9% are Malays, 7.6% are Indians, 4.5% are Malaysians and the rest Europeans and Eurasians and others.

The three principal races in Malaya are the Malays, the Chinese and the Indians. Each race has, of course, its own peculiar traditions and characteristics. The Malays, for instance, are described as 'Nature's gentlemen'. They like simple life and easy ways and many of them work as chauffeurs and policemen. There are also among them some professional men and public servants holding high positions under the Government. The Chinese, unlike the Malays, are very pushful and industrious and hard-working. The business of the country is mainly in their hands. They have a wonderful adaptation and immense enduring capacity. You will find them in all walks of life in Malaya. Their energy

and enterprise contributed not a little to make Malaya what it is today. About 80% of the Indians are labourers from South India. The rest are made up of merchants, traders, clerks, contractors and professional men. They are politically far more conscious than either the Chinese or the Malays.

MALAYA AFTER THE WAR

Malaya had no politics worth the name before the war. People were interested only in their businesses, clubs and sports. A remarkable change was brought about by the war. There was an immediate boiling up after the war and parties and associations began to spring up with amazing rapidity determined to play their respective part in shaping the destiny of Malaya.

It is well-known that the British, before they surrendered to the Japanese in February 1942, freely distributed arms and ammunition among the Chinese so that they might use them against the Japanese aggressors. During the occupation days these Chinese were living in the jungles of Malaya and carrying on guerilla warfare much to the annoyance of the Japanese.

When the time came for the Japanese to lay down their arms they did the same thing as the British. They too distributed arms and ammunition to these guerillas to enable them to carry on their fight for independence against the British. These guerillas were trained and led by the Malayan Communist Party which came out of the occupation with a programme for national liberation. Columns of Chinese guerillas—the Three-Star Men—paraded through the public roads in some places proclaiming the independence of Malaya. The men wore a head-dress with three stars symbolizing the three important communities of Malaya—Chinese, Malays and Indians. Their objective was the establishment of a worker's Republic in which the labouring classes of all the three communities would equally participate without any distinction. When they found that there was no response from the general public for the Communist Party's objective, they dropped the idea for the time being and retreated into the jungles from there to carry on underground work which they had been successfully doing ever since.

In the meantime, labour was being organized all over Malaya with unprecedented thoroughness and enthusiasm. The labourers cast off their former docility and timidity and began to formulate their demands not

only for increased wages but also for guarantees that workers in the rubber plantations and tin mines would not be dismissed except with the consent of the Unions concerned. A new spirit of militancy was clearly noticeable among them.

The situation was further complicated by the blow which was struck when the Japanese currency, popularly known as the 'Banana Money' was demonetized. People, especially the poorer classes, suddenly realized that what they had put by had become valueless. The shortage of food-stuffs, low wages and high prices, all contributed to bring about a situation which stimulated labour troubles and widespread strikes.

The British with their inherent shrewdness correctly appraised the new situation and declared 'that they were working towards the government of the people of Malaya, by the people of Malaya, for the people of Malaya.' The Commissioner-General of South East Asia, the Rt. Hon. Mr. Malcolm McDonald in a broadcast speech on 'Britain and Asia' said: 'We shall support with all our hearts any movement seeking to associate the Malays, the Malayan Chinese and other communities, who owe undivided loyalty—unswerving allegiance—to Malaya in a brotherhood of all the peoples of this country inspired by a common patriotism. We look forward to the day when they may take their place beside the other self-governing peoples in the British Commonwealth. That is a promise. We shall not break it.'⁵

POLITICAL PARTIES IN MALAYA

The three major communities realizing that their success in achieving self-government for Malaya will depend on their unity and strength began the work of organizing their political parties with greater thoroughness than in the past.

Political parties in Malaya are organized on communal basis. There are some political organizations such as the Progressive Party of Singapore in which membership is open to all races; but they are not very many. Chinese, Indians and Malays have all their respective political organizations, and some communities have more than one. We will now attempt to give a brief account of the more important of these political organizations.

The United Malays National Organization: The United Malays National Organization (U.M.N.O.) about which we hear a great deal in these days came into existence in March 1946. It was organized by Dato

Onn bin Jaffer the 55-year-old Prime Minister of the State of Johore. It will be remembered that Sir Harold Mac Michael arrived in Malaya in October 1945 as the Special Representative of His Majesty's Government and concluded formal agreements with the Sultans of the various Malay States. The Malays opposed the proposals and carried on a vigorous agitation against the Malayan Union. It was mainly due to the efforts of U.M.N.O. that the British Government changed the character of the Malayan Union by making it the present Federation of Malaya. This success considerably enhanced the prestige of U.M.N.O. and increased its influence. The Malays who were politically dormant till then became awake and rallied round the banner of Dato Onn, their political leader who typified in himself 'the emergence of nationalism among the Malays and their new political aspirations.' The U.M.N.O. is about 100,000 strong. Its influence is mostly with the Feudal Chiefs, aristocrats, members of the middle class and the intellectuals. It has little mass following. All the same it is the largest political association of the Malays.

On 31 January 1948, on the eve of the inauguration of the Federation of Malaya, Dato Onn in a message to his countrymen welcomed the Federal constitution, as it would, in his opinion, take the people of Malaya towards the goal of self-government. But a year's working of the Federal constitution appears to have changed the views of Dato Onn. In his address to the General Assembly of U.M.N.O. in August 1949, he placed independence as the new goal for Malaya.

In order to give his organization a national character an amendment of major significance was made recently in the constitution of the U.M.N.O. Provision was made in the constitution to permit non-Malays to become members of the organization provided they are Federal citizens. It is doubtful whether this gesture on the part of U.M.N.O. will give it the wholehearted support of the non-Malays. But the amendment referred to above would show that the Malays have realized that the political salvation of the country will depend on the agreement and harmony of all the communities in Malaya.

The Malay Nationalist Party: There is another Malay political organization known as the Malay Nationalists' Party (M.N.P.). It claims far more membership than the U.M.N.O. Its influence is more felt among the masses—the Kampong Malays, the peasantry and the labouring classes of Malays. It is leftist in its politics and it stands for a Federation comprising Malaya, Indonesia, Sarawak and British North Borneo. It

wants to allow Malayan nationality to non-Malay residents of Malaya who are prepared to swear undivided loyalty to Malaya. The party was very active before the Emergency Laws came into force. Many of its leading members are under detention. The party rarely shows any activity now.

The Malayan Chinese Association: The Chinese are better organized than any other community in Malaya. The interests of the domiciled Chinese numbering more than half of the Chinese population are not identical with those of the immigrant Chinese. The domiciled class are taking more and more to European ways and culture; but the immigrant Chinese still retain their old Chinese ways and outlook. The Chinese have their provincial associations, their craftsmen and traders guilds. But none of them is a political body. Chinese opinion was usually expressed before the war through local Chinese Chambers of Commerce.

The domiciled Chinese were divided, as they were in their own country, into those who belonged to the Communist Party and those who were followers of the Kuomintang. None of the political parties which involved themselves in Chinese politics is active now. There is only one major Chinese political organization in Malaya to-day—the Malayan Chinese Association (M.C.A.) under the leadership of Mr. Tan Cheng-Lock, a veteran Chinese politician of distinction and experience. Mr. Tan Cheng-Lock was for a long time one of the ablest members of the old Straits Settlements Legislative Council. He was in India during the war and on his return to Malaya after the war he plunged into politics again.

For the first time in the history of Malaya, Malayan Chinese representatives from all parts of Malaya met at Kedah in February 1949 and decided to form 'an organization on a Pan-Malayan basis with the twin fundamental objectives of bringing about cohesion and unity among the Malayan Chinese of all classes and of promoting inter-racial goodwill, harmony and co-operation for the sole good of Malaya and its inhabitants as a whole.'

Any Chinese who has resided in Malaya for five years can become a member of the Association. It claims a membership of more than 50,000 at the present time and it is the most representative association of the Chinese in Malaya including among its members nearly all the recognized Chinese leaders in the country. It has been a great help to the Government in solving the squatter problem and in suppressing and eliminating the bandits.

On 3 September 1949, Mr. Tan Cheng-Lock made a statement declaring the creation of an independent Dominion of Malaya within the framework of the British Commonwealth as the goal towards which the people of Malaya should work. It is very significant that this statement followed a similar utterance made by Dato Onn as President of the U.M.N.O. in August 1949.

The Malayan Indian Congress: South Indians form nine-tenths of the total Indian population. Malaya depends mainly on immigrant labour for the working of its two key industries—tin and rubber. The Chinese predominate in mines and the South Indians on the plantations and in the Government Public Works Departments engaging labour.

Quite a network of Indian Associations existed in Malaya before the war. But they took little interest in the politics of Malaya. These associations consisted mainly of clerks, businessmen and a few professionals. They fought shy of politics with the result that the activities of these associations were confined to the social side and sports. It was felt however that Indians must have a central organization to safeguard their political rights and to represent the Indian community of Malaya in all matters concerning their general welfare. A body known as the Central Indian Association of Malaya was therefore created about 15 years ago. That had been doing very useful work to the community before the commencement of the war. There was an attempt to revive its activities after the war. But it was felt that a bigger and more representative organization was necessary for Indians to play their proper part in the post-war politics of Malaya. Accordingly the Malayan Indian Congress (M.I.C.) was started soon after the war.

It was Mr. John A. Thivy who took the initiative in the matter and he became its first President before he took up his present appointment as the Representative of the Government of India in Malaya. The Malayan Indian Congress has a network of branches throughout Malaya and it is the one organization in Malaya which can claim to represent Indians of all classes. It stands for democratic government for Malaya and it appeals to all Indians to co-operate with other communities in working for this end. The membership is open to all Indians above the age of 18 and there is a large number of Indians on its rolls as members, though it is doubtful whether the membership is as large today as it was some time ago. Mr. Thivy led the party with faith and enthusiasm for some time until he was succeeded by Mr. Budh Singh who is now the President of the Malayan Indian Congress.

Mr. Budh Singh feels that the Congress needs revitalizing. There appears to be a growing tendency for disintegration which, if not checked in time, might weaken the Congress. The reason for this tendency is, according to Mr. Budh Singh, the impossibility of framing a programme that can meet the needs of two interests. It cannot serve effectively either the interest of Indians who do not consider Malaya as their real home or those who do. Accordingly, at the third annual session of the Congress held in Kuala Lumpur in August 1949. Mr. Budh Singh brought a proposal to amend the constitution of the Congress by confining its membership only to Indians who hold Malaya as their home and the object of their loyalty. Other Indians who wished to work for the Congress could do so, Mr. Budh Singh suggested, by becoming Associate-members without the right to vote.

It is said that if these changes are made in the constitution it will strengthen the relationship of Indians with other communities and it will also increase the confidence of Indians in the Congress organization thereby making it more useful and effective.

The proposals were vigorously opposed by a large section of Indians in Malaya on the ground that if they were carried out it would destroy the unity of Indians in Malaya. If the Malayan Indian Congress is not so active and vigorous today as it was in the beginning, the reason for its activity must be found elsewhere and not in its constitution. If it is restricted to the domiciled class only, there is every possibility of its growing weaker and less useful.

Further consideration of this amendment was postponed for the time being. Those Indians who support Mr. Budh Singh feel that the strength of the Chinese Malayan Association is mostly due to the fact that its membership is confined to Malay-born Chinese. A similar adjustment in the Malayan Indian Congress, they think, will help to strengthen it.

The Ceylonese Federation: Though not numerically strong the Ceylonese—especially the Jaffna Tamils—have organizations of their own in different parts of Malaya. The Ceylonese in Malaya are employed mostly in Railways, Government Offices and in the estates. There are also a few professionals and businessmen among them. They have a central organization known as the Ceylonese Federation of Malaya (C.F.M.) to look after the interest of the Ceylonese communities as a whole. The Hon'ble Mr. E.E.C. Thuraisingam, a Ceylonese lawyer, is its President. He also represents the Ceylonese community in the Federal Legislative Council.

The Communities Liaison Committee: A brief mention may also be made about the Communities Liaison Committee (C.L.C.) Malaya has been always famous for its communal harmony. It became very essential not only to preserve it but also to strengthen it on account of the present disturbed state of the country. To this end some leading men of different communities have combined together to form what is known as the Communities Liaison Committee. The Committee originally consisted of six Malays, six Chinese, one Indian, one European and one Ceylonese. But there is no Indian in the Committee now. Mr. E.E.C. Thuraisingam is its Chairman. It is formed primarily for the purpose of assisting and advising the Government in dealing with matters connected with the Emergency. An attempt is also being made to utilize it as the mouthpiece of the people of Malaya in giving expression to their common political aspiration. It was reported in the papers recently that the Communities Liaison Committee held meetings at Johore Bahru on 14-16 September 1949 discussing political aspects of the inter-communal problems in the Federation of Malaya and issued a communique through the Public Relations Department, Singapore, to the effect that it was the agreed view of the Committee that the aim of the Federation of Malaya should be the attainment of self-government with sovereign status and the creation therein of a nationality.

Though there are some leading men of Malaya in the Committee, it cannot claim any popular support. It is an officially sponsored body. The Commissioner-General attends its sittings regularly as an observer. Further, its meetings are held within closed doors and are not open to the Press.

POLITICAL PARTIES OF SINGAPORE

After the separation of Singapore from the mainland of Malaya, the Colony is having its own politics and political parties. The introduction of the elective system to a limited extent in the Legislative Council and the Municipality of Singapore has helped the formation of new political parties.

The Progressive Party of Singapore (P.P.S.) was organized at the time of the first general election to the new Legislative Council early in 1948. This is perhaps the only political party in the Colony which is organized on a non-communal basis. It is a party of the upper middle class deriving its support from the local-born employees in the Government and semi-Government departments and of the clerical class. The membership

is open to all classes and to all races without any distinction—Chinese, Indians, Malays, Ceylonese, Eurasians and Singalese. It stands for the abolition of the colour bar, has no higher posts in the Government and for the employment of more and more local born people in the Government services of the Colony. The party is led by Mr. C.C. Tan, a Chinese lawyer, who is its President and Mr. John Laycock, a European lawyer who has a long record of faithful service to Singapore and its people. The party has no mass following. All the same, it is the best organized political party in the Colony of Singapore.

The Singapore Indian Chamber of Commerce: Though not a political body, the Singapore Indian Chamber of Commerce has a great influence in the politics of Singapore. It has the right to elect a representative to the local Legislative Council. Mr. R. Juma Boy, a well-known Indian resident of Singapore, is its President, and he also represents the Chamber in the local Legislative Council.

Trade Union: Trade Unions do not come within the category of political parties. But in dealing with the political parties of Malaya at the present time one cannot avoid a brief mention of the Trade Unions of Malaya. In order to understand the Trade Union movement in Malaya it is necessary to know something about its background and history. Labourers are drawn from the three principal races of Malaya—Chinese, Malays and Indians. The standard of living of the average worker in the pre-war days was low, though it was slightly better than in the surrounding countries. There were strikes among the labourers for higher wages and better amenities, but they were not very frequent. With the war an inevitable change was brought about in their attitude and outlook. The cost of living after the war, it has been officially estimated, has increased by 300 to 400% and the wage increase did not keep pace with it.

The Trade Union movement in Malaya has its connexion with: (i) old established Chinese Guilds and Secret Societies, (ii) the Pre-war Societies and Associations and Clubs, (iii) the Anti-Japanese fighting units of the occupation period; and (iv) the new organizations formed under the Trade Union Ordinances.⁶

In 1928, the Malayan Government began the reorganization of societies and many of the societies reorganized under the new dispensation became Trade Unions in function though not in name. Indian labourers in Malaya did not show the same interest as the Chinese to form associations of their own. The few associations they had, were

organized on anything but Trade Union basis. Unlike the Chinese Guilds, there were no associations for Indians which could have developed into a Trade Union.

The Japanese occupation had a profound effect on the Trade Unions in Malaya. When Malaya was liberated by the British the labourers who were saturated with new ideals and new ideas of freedom began to organize on a wide scale. Encouragement was given by the Government for the formation of responsible Democratic Trade Unions and with this purpose in view, a Trade Union Adviser's Department was opened.

The Communists, however, took the view that they should control the Trade Unions in Malaya, and they did dominate them for a time. It was only after the Emergency that the movement was freed of its Communist control.

According to the Trade Union Adviser of Malaya, Communist activities of the Malayan Trade Union movement were successfully fought out a year ago. It is now free of the Communist influence. Over 62.5% of the local membership of the Malayan Trade Unions is at present Indian.

The Malayan Communist Party: The Malayan Communist Party was formed in 1928. It was not making much headway until the war started. At the time of the Japanese invasion of Malaya, the party offered its services to the Government, and the offer was accepted. The party consisted mostly of the Chinese. After the fall of Singapore they withdrew to the jungles and there they remained during the occupation period occasionally coming out to the country at night to harass the Japanese and to kill them. During the 3½ years' stay in the jungles of Malaya these young men received thorough training in Communist ideals and tactics. The ranks of the Communists were swelled by all sorts of people including rebels and bandits who sought refuge in the hills. There were also some Malays and Indians among them though their number was insignificant.

While fighting the Japanese in the jungles, they were preparing for the establishment of a Soviet Communist Republic of Malaya, after the war. With this object in view they decided to have their men in all labour unions and places of employment. After the surrender of the Japanese forces in August 1945 the guerillas came out of the jungle and got control of most places in Malaya. 'The most gruesome part of the "Communist" programme was the cleaning up of "Traitors and running dogs", the informers, detectives, blackmailers, sub-inspectors, sergeants and third

degree experts, under the Japanese régime. Condemned dogs were put into pig's cages, carried all round the town and then butchered before the crowd⁷. They were the *de facto* Government of Malaya for about two months after the surrender of Singapore. Their authority was unquestioned until they were either disarmed or disbanded. The party however continued their activities in other spheres with the object of achieving their end, namely, the establishment of a workers' Republic in Malaya. They had their men in almost all the Trade Unions, from miners and plantation workers to sweepers and scavengers. Today the Communists are no longer in the open. Their party is banned. About 95% of the armed terrorists are Chinese and more than half of them are aliens in Malaya.

To combat the terrorists the Government declared a state of Emergency in Malaya. All persons in Malaya now must have their identity cards with them and their photographs. Failure to obtain a card will mean imprisonment or fine or both. Large number of constables of all races have been enrolled to assist the police and military. Regulations have been made to repatriate any person assisting the Communists in any way. The High Commissioner for Malaya Sir Henry Gourney told the Federal Legislative Council early in October last that over 15,000 people had been eliminated from active participation in banditry during the past year. Of these nearly 10,000 had been repatriated to China, being foreign born Chinese.

Thousands of British troops, Gurkha soldiers, special constables and Kampong guards are engaged in fighting the rebels. Yet the terrorists go on relentlessly with their work of plunder, arson and murder. The Commissioner-General, the Rt. Hon. Mr. Malcolm McDonald said a few weeks ago that the number of terrorists including their sympathizers would not exceed 10,000. Why with all the resources of the Government they are unable to put down the rebels and to restore peace in the country is a question to which we are still waiting for an answer. Sir Henry Gourney frankly admitted before the Federal Council that 'nobody supposed that the final elimination of the trouble from these dense jungle areas is going to be quick or easy'.

The Future of Malaya: More than a year ago, when I was about to leave Malaya for India a British friend of mine asked me how long more in my opinion the British were likely to remain in Malaya. It was a difficult question to answer. I said it might take five to ten years more before the British quit Malaya. My friend was obviously surprised at my

answer and said 'Do you think it will take so long as that?' That question came from one who had been in Malaya for over 25 years and who knew the country and its people very well. Considering the rapidity with which events are moving in Malaya, one would hesitate to predict the future of that country with any degree of certainty.

The leaders of the three important races in Malaya—Malays, Chinese and Indians—have all declared self-government for Malaya as their immediate goal. The existence of many races in the country they do not consider to be an obstacle for the realization of their aim. It is quite possible to build up a political structure in which Malayan tradition, communal amity and progressive democracy could harmoniously unite. 'Multi-nation States like Switzerland, Czechoslovakia and Canada provide encouraging examples of countries where different races have succeeded in combining freedom with unity.' Malaya has a tradition of tolerance and inter-communal goodwill. The three great races have been and are like three parallel streams running side by side without meeting each other. They know that racial unity is essential in Malaya before it can get its independence. But this unity is yet to be accomplished.

Malaya is a country with four languages, Malayu, Chinese, Tamil and English. Malayu is the common language for all races and it is a great factor in promoting mutual understanding between the races. The educated people of all the important communities in Malaya can speak English and it is a great help to bring together the leaders of the various races on a common platform to plan their common future and to decide common lines of action.

At present the longing for independence is confined to the intelligentsia of all the races. But they are receiving ever widening support from people of all classes. Momentous changes which are taking place in the neighbouring countries have, of course, influenced and are influencing the course of events in Malaya. Burma has become a Republic. India will soon be one. Siam has been an independent country for centuries. Indonesia has cast off the Dutch domination and is rising up as an Independent Republic. A great struggle is going on in Indo-China to free itself from the clutches of France and join the ranks of free countries in South-East Asia. Dramatic changes are taking place in China under the leadership of Mao Tse-Tung which may have far-reaching consequences not only in shaping the destiny of China but also in deciding the fate of the whole of South-East Asia. Would Malaya remain long as a Colony of the British without asserting her right to independence?

Is Malaya able to stand on her own legs when the British support is withdrawn? With all their resources in men, money and machinery the British find it difficult to put down the terrorists and to check the growing menace of Communism. Where would Malaya be without such resources? These are questions which agitate the minds of many well-wishers of Malaya.

What Malaya lacks is a common outlook among the various races and readiness to present a united front. The people are still communal in their outlook and have not yet become national. They consider themselves as Malays, Chinese, Indians or Eurasians and not as Malaysians. So long as they have that feeling the advent of independence is likely to be delayed. The factors to bring about a common feeling of unity are already there but it will take a little more time for those factors to produce the necessary result. Until then the British will have to remain in Malaya. That was why I said to my British friend that it might take five to ten years more for the British to quit Malaya. New factors might intervene to hasten the speed. About this, we cannot be certain now.

The three important political parties—the United Malay National Organization, the Malayan Chinese Association and the Malayan Indian Congress—must join together and present a united front. The tendencies which are unfortunately noticeable now are not conducive to achieve this end. The U.M.N.O. which stands for the Malays wants non-Malays to join it in order to give it a national character. Some prominent non-Malays have already joined it. But this fact is not likely to give it a national character. There may be a similar gesture on the part of the Malayan Chinese Association asking non-Chinese to join it, and the Malayan Indian Congress might follow suit. Would this method help to create genuine nationalism in Malaya? These organizations are not likely to lose their communal character by such ingenious methods. The Malays must consider that non-Malays who regard Malaya as their home and their object of loyalty have as much right in the country as the Malays themselves. The various communal bodies, though they all have the same political aspiration, are fundamentally dissimilar in their social outlook and economic ideas. It is not likely that they will all join one political organization to carry on their fight for independence. The next best thing would be for leading representatives of the various communal organizations to form a common political body to speak on behalf of the people of Malaya as a whole. If some such body is created and if it makes a united demand on behalf of the people of Malaya, Britishers will find it

difficult to resist their demand. That is bound to come sooner or later, perhaps sooner than later.

Would Communism overtake Malaya when she gains her independence? That will, to a very great extent, depend on the situation in China. There is no doubt that once the British power is taken away from Malaya, the Chinese will become the dominant people of that country. With their numerical strength, organizing ability and adventurous spirit they are bound to play a great part in shaping the destiny of Malaya. With Communism sweeping the face of China in full strength, it is idle to imagine that it will leave Malay alone. The forces working for a Communist Malaya are already there. They are only kept under control by the British. When that power is withdrawn there is every possibility of Malaya becoming an easy prey to Communism.

NOTES AND REFERENCES

1. *Malaya. Statement of Policy for the Future Constitution of the Malayan Union and the Colony of Singapore.*
2. *The Singapore Colony Order-in-Council*, 1946, p. 48.
3. *Federal Government, Federation of Malaya Government Gazette*, 5 February 1948.
4. The word 'Malaya' is used here so as to include the Federation of Malaya the Colony of Singapore.
5. *Britain and Asia*, Published by the Department of Public Relations, Kuala Lumpur.
6. *Labour and Trade Union Organization in the Federation of Malaya and Singapore*, by S.S. Awberry and F.W. Dalley, p. 19.
7. *Malaya Upside down* by Chin Kee Onn, p. 203.

4

The Constitution of The Federation of Malaya**

HARRY E. GROVES*

The Federation of Malaya is composed of nine states: Johore, Pahang, Negri Sembilan, Selangor, Kedah, Trengganu and Perak and two 'Settlements': Penang and Malacca. It achieved its political independence by peaceful negotiation with the United Kingdom, which had exercised varying degrees of sovereignty in the peninsula since 1786, when Penang was ceded to the East India Company by the Sultan of Kedah. The period of British colonial domination was not a period of political unification. The country, in fact, achieved its first political unity with its freedom.

No comment on the Constitution of the Federation of Malaya can be meaningful without some knowledge of the 'communities' or ethnic groups of which the country is composed.

* Professor Harry B. Groves, is a Visiting Professor of Constitutional Law, University of Singapore, Singapore.

** The historical and demographical portions of this article are taken from an earlier work by the same author, 'Fundamental Liberties in the Constitution of the Federation of Malaya—A Comparative Study,' 5 *Howard L.J.*, p. 190 (1959). Where relevant, figures have been revised in light of more recent data.

ABORIGINES

The indigenous people of the peninsula are the Aborigines. They are comparatively few in number, only about 50,000 to 60,000 in the total population of approximately 6,800,000.¹ They are primarily jungle dwellers; their culture is primitive. However, those who have chosen to adopt the Malay language and Mohammedan religion tend to become absorbed readily into the Malay community.²

MALAYS

The people who have given their name to the region and are the recognized natives are the Malays. They are thought to have come from Sumatra and neighbouring islands within the period of recorded history.³ Prior to the coming of the Europeans, in the first instance, the Portuguese, to subjugate Malacca in 1511, the Malays had lived in largely autonomous Sultanates, although Kedah, Perlis, Kelantan and Trengganu acknowledged the suzerainty of the King of Siam as late as 1909. The British replaced the Siamese suzerainty over these four states by treaty.⁴

The technique by which the British chose to govern the peninsula underlies the structure of the present constitution. The method was that of indirect rule. To accomplish this the British negotiated treaties in all of the units which are now States of the Federation, beginning in 1874. By the terms of the treaty the individual Ruler placed himself under British protection and accepted a British Resident at his court.⁵ The Rulers were bound to accept the advice of the Resident; but the system sustained the fiction of the sovereignty of the Malay Rulers and, of course, retained them as heads of state. Penang and Malacca, along with Singapore, were under direct British rule as a Crown Colony. The continuity of Malay institutions, particularly of government, not visibly interrupted by the British indirect rule, goes far to explain the present attitude of the Malays that the nation is fundamentally Malay and their 'community' is entitled, *ipso facto*, to special privileges entrenched in the Constitution. Such British policies as that of the so-called 'reserved' land, that is, land which could be alienated only to Malays, have given strength to Malay notions of privilege. The same thing may be said of the well-known Malay Regiment, which was limited to Malays, and of the civil service, which under the post-depression and pre-war British policy favoured the Malays.⁶

Even the Japanese during the occupation, though making themselves first in the caste system which they established, recognized the existing Malay structure by placing the sultans and the Malays immediately after themselves, to be followed in order by the Indians, Chinese, Eurasians and Europeans.⁷

One of the most striking and constitutionally significant features of the Malay community is that it comprises less than a majority of the total population of the Federation of Malaya. Most recent figures—for 1957—placed the Malaysians⁸ at just under 50 per cent of the total population.⁹ There is, however, considerable divergence within the units of the Federation in respect to the various communities. The States of the north and north-east, Kedah, Kelantan and Trengganu, are largely populated by Malays, while the southwest and west consist primarily of Chinese-inhabited towns and large villages and Malay hamlets.

The standard of living of Malaya is high for the Far East; but the concentration of wealth is not in the hands of Malays, who are primarily small farmers, fishermen, villagers, policemen, soldiers, operators of small rubber holdings. Educated Malays tend to be attracted more to the civil service than to commercial pursuits. Though the British system of schools favoured the Malays over the other communities, which largely financed their own institutions, the Malay pattern of residence in rural communities operated to their educational disadvantage as contrasted with the Chinese, whose presence in large cities made more educational opportunities available to them. As a result, under the British, only a comparatively small number of Malays remained in schools past the age of 14¹⁰. The Government is exerting greatly to redress the educational and economic imbalances. Special attention is being given to rural education; and Malays are given preference in certain economic enterprises, such as road haulage. Private industry, particularly the segment consisting of foreign-dominated corporations, has begun to encourage wider shareholding by Malays and to seek Malays for their boards of directors.

Malays are devout Muslims, a fact providing perhaps their most enduring bonds with their Rulers, each of whom is the religious head of his State. Their religion itself poses a type of barrier between them and the other communities since it forbids marriage with non-Muslims. In fact, for such a cosmopolitan nation, it displays an exceedingly small incidence of inter-racial marriages. Inter-marriage, however, appears to be not socially unacceptable. Inter-racial-marriages are given quite

favourable publicity by the press. The Government itself has a very active programme of fostering inter-cultural unity, which provides an encouraging climate for such unions.

Though the Malays were not particularly politically-conscious during the British occupation, their post-war attitude was one of growing nationalism, stimulated by a programme of 'Malay for the Malays', actively fostered by the sultans.¹¹ They felt a proprietary right to the country and a special claim to government office, though they acknowledged a kind of tenant interest that the other communities had in the States, together with a right of representation in state councils, but rather as a result of a grant of privilege than by way of a right of full membership.¹² Beyond question the attitude of Malays toward the large and aggressive Chinese community was one of dislike and fear of their economic and potential political power.¹³ Towards the other communities the Malays possessed a high degree of tolerance, even as to the British, with whom their relations have remained completely friendly.

CHINESE

The Chinese have a long history in Malaya, residing there since the fifteenth century, when a flourishing trade existed with China, and the Sultan of Malacca, then the most powerful ruler on the peninsula, paid tribute to the Emperor of China. The British are, however, responsible for the importation of the very large number of Chinese into the peninsula. The greatest Chinese immigrations took place around the middle of the nineteenth century, following the discovery of rich tin deposits in Perak.¹⁴ The Chinese now comprise nearly thirty-seven per cent of the total population.

Though the Chinese came first as labourers to work largely in the tin mines and on roads and in the clearing of jungle, their energy and commercial bent quickly led them into every aspect of the economic life of the region. Because the Chinese system of ownership rarely took corporate form, the greater share of the major industries, particularly tin and rubber, was in British and other western corporations, but even in these industries Chinese ownership and control is impressive, and the labour utilized by tin mining is predominantly Chinese. The Chinese are active in finance, although many of the big commercial houses are European. The Chinese are also the shopkeepers and tradesmen of the

cities. In spite of their economic and social stratification, the Chinese were, until after World War II, basically a transient community not regarding Malaya as a permanent home. Typical are the figures for 1939, with 115,792 Chinese immigrants and 106,375 Chinese emigrants. The Chinese regularly sent home approximately two million British pounds per year, a figure rising to thirteen million in 1941.¹⁵ Following World War II and the successful conquest of the Chinese mainland by the Communists, the Chinese population of Malaya has become much more stable. The former imbalance between the sexes is disappearing and more Chinese children are being born in Malaya.

Before the war the Chinese in Malaya lived a highly communal life. Not only did they retain their language and culture, but they were permitted a form of private or clan government through the operation of their secret societies. Their affairs were but little known to the British.¹⁶ It has been reported that as late as 1957 no fewer than forty-eight Chinese secret societies were operative in the Federation of Malaya.¹⁷ Not only are the Chinese set apart from the other communities by race and language, but their religion is a factor of disunity. The Chinese in Malaya are Buddhists, Confucianists, and Taoists. Their interest in the preservation of their culture may be seen in their schools. Before the war the Chinese maintained their own school system, with Chinese as the language of instruction, which system was almost entirely financed by the Chinese community. Even today with the Government strongly encouraging nationalisation of the schools, powerful forces in the Chinese community insist on maintaining the essential Chinese character of the Chinese schools as a means of preserving the culture of that community.

Prior to the Federation of Malaya Order in Council, 1948,¹⁸ there was no federal citizenship. One was a citizen of one of the States or a British citizen, if born in the Crown Colony. Few Chinese enjoyed citizenship in the Malay States. The post-war effort of the Chinese was to secure more liberal laws permitting citizenship,¹⁹ to increase their political power and protect their rights in the emerging nation.

INDIANS—PAKISTANIS

The third largest community in Malaya consists of the Indians and Pakistanis, who are generally lumped together statistically and will be treated as one community for the purposes of this discussion. Together

they comprise somewhat over eleven per cent of the total population of the country. Like the Chinese, the Indians were imported by the British, to work in the rubber plantations. Unlike the Chinese, the Indians have tended to remain primarily labourers, although substantial numbers have advanced up the economic scale as shopkeepers, businessmen, government servants and in the professions. But they have seldom reached the financial heights attained by the Chinese and certainly with no suggestion, present or potential, of the control of the economy, or any portion of it, achieved by the Chinese. The Indians are set off from the other communities by race, by religion, essentially Hindu, and by language, primarily Tamil and Punjabi. Like the Chinese, the Indians also until recently, tended to look on Malaya as a place of temporary sojourn in which to make one's fortune, rather than as a permanent home.²⁰ At the instance of the Government of India, they were, in fact, protected by labour legislation generally more favourable than that applied to the other major immigrant labour group, the Chinese.²¹

OTHER COMMUNITIES

Numerically the other races are insignificant, although they are generally thought of and regard themselves as separate communities. Perhaps the most important are the Europeans, primarily the British and the Eurasians. The importance of the British is far greater than what their numbers may seem to warrant, since they still occupy many of the highest non-elective posts in Government and dominate a significant sector of industry and commerce. A military alliance for the defence of the Federation keeps substantial number of British troops within the country.

CONSTITUTIONAL DEVELOPMENTS

Prior to World War II, there was in the peninsula little or no popular interest in the machinery of government nor did any group, Malay, Chinese, or Indian have any appreciable political consciousness.²²

The collapse of British rule in Asia, with the Japanese occupation and its complicated legacy, provided the stimulus for Malayan nationalism and for demands for broader rights of citizenship. Britain attempted to meet the new situation with proposals for a Malay Union.²³ While this instrument left the control of government, both in the States and in the

Straits, firmly in British hands, it did provide for a central Malayan government and it introduced the concept of Malayan Union citizenship.

Although the Sultans accepted the Union proposals, they aroused the opposition of Malays generally, who feared the strength of the non-Malay communities if they achieved full political rights.²⁴ The period of 1946 to 1948 was characterized by political ferment on an essentially communal basis. The United Malays National Organization spoke for the politically-conscious of that community: the Indians were represented by the Malayan Indian Congress, formed in 1948; and the Chinese by Kuomintang and Communist organizations.²⁵ Opposition to proposals for federation,²⁶ which followed the British abandonment of union, evoked the first measure of co-operation among the non-Malay parties (but including the left-wing Malay Nationalist Party). The 'People's Constitution', which these parties drafted in 1947, exerted little influence on the Federation proposals, but many of its provisions were echoed in the 1957 Constitution.²⁷

Two events significant to the development of the Constitution occurred in 1948. One was the creation of the Federation of Malaya by an Order in Council²⁸ which repealed the one establishing the Malayan Union. In form the Federation appeared a loose one of near-sovereign states; but the compulsion of the Rulers to follow the counsel of their British advisers, together with the 'reserved power' of the High Commissioner to enact legislation without the approval of the Legislative Council, provided the means for an effective centralization of power. Probably more significant than the unification achieved were the citizenship provisions of the instrument. Part XIII of the Second Schedule provided for the acquisition of federal citizenship by operation of law and by application. Although the provisions of both sections were complicated and favoured the Malays, nevertheless number of non-Malays were able to acquire citizenship, particularly through the operation of the section extending federal citizenship to British citizens born in the Settlements.

The second important development of 1948 was the beginning of Communist guerilla warfare in opposition to the Federation government. A major by-product of this conflict was the temporary termination of the developing interaction and growth of the political parties. It has been pointed out that a 'war between a colonial administration and a Communist underground is a bad time for political controversy or for preaching social change.'²⁹ Non-racial party organization collapsed. The

United Malays National Organization and the Malayan Indian Congress survived, to be joined by the Malayan Chinese Association, originally a welfare organization, which became the chief political organ of the Chinese.³⁰

A continuing trend during this period was the liberalization of the provisions for federal citizenship, e.g., the extension of time during which one might make application for citizenship in 1951³¹, and particularly the 1952 enactment,³² liberalizing the provisions of citizenship by operation of law and providing for citizenship by registration and by naturalization instead of by 'application' as in the 1948 instrument.

The sentiment for independence continued to grow during the 'emergency' period of Communist warfare. In time it became apparent that independence could only be achieved through some joining of forces of the communal parties; and in 1952 the United Malays National Organization, the Malayan Chinese Association, and the Malayan Indian Congress formed a political coalition, the Alliance, which carried a number of State and Settlement elections. The Government in 1954 agreed to make a majority of the seats in the Federal Legislative Council elective rather than appointive as formerly. Of the fifty-two seats to be filled in the first such election in July, 1955, fifty-one were won by the Alliance, with voting across racial lines being one of the most striking features of the election.³³

Discussions were begun in August, 1955, between the British Secretary of State, the Rulers and the new Alliance Ministers on the next steps toward self-government.³⁴

It was agreed that a Commission to review the Constitution of the Federation should meet in London early in 1956.³⁵ The Federation of Malaya Constitutional Conference met in London in January and February, 1956. Agreement was reached on full self-government and independence within the Commonwealth. A Commonwealth Constitutional Commission was agreed upon to make recommendations for a Constitution. Only five members served on this Commission: Lord Reid, a Lord of Appeal in Ordinary, as Chairman, Sir Ivor Jennings, Master of Trinity Hall, Cambridge, Sir William McKell, a former Governor-General of Australia, Mr. B. Malik, a former Chief Justice of the Allahabad High Court, and Justice Abdul Hamid of the West Pakistan High Court. No Malaysians served on this Commission. The Commission was given five specific terms of reference: (a) the

establishment of a strong central government with some autonomy in the States, (b) safeguarding the positions and prestige of the Rulers, (c) providing for a constitutional Head of State, (d) creating a common nationality, and (e) safeguarding the special position of the Malays and the legitimate interests of other communities. The Commission met in Malaya in the summer of 1956. It solicited memoranda from organizations and individuals and received 131 such memoranda. It held 81 hearings in support of the memoranda throughout the peninsula. It visited each State and Settlement conferring with officials, British and Malay, and met informally with other official and private persons. The Commission went to Rome to prepare its report.³⁶

The report was examined by a Working Party composed of the High Commissioner, representatives of the Rulers, and representatives of the Alliance Government. This was followed by discussions in London of representatives of the British Government, the Rulers, and the Alliance Government. A final draft was accepted by the Federal Legislative Council in July, 1957. As contemporary evidence of the meanings of controversial provisions the debates on the Constitution in the Legislative Council are not too helpful. The Constitution was before the Council for only two days, the 10th and 11th of July. Members had apparently had only one week to study its text. No real discussion was had of its provisions. The Chief Minister restated some of them; but members were generally quite conscious of the fact that they were expected to act favourably and quickly on the Constitution as a whole. Indeed, any desire to delay impending Merdeka by constitutional controversy was pointedly eschewed by more than one speaker, most of whom rose simply to defend, or occasionally attack, not to debate or expound or clarify any section of the Constitution. Many took the floor for the sole purpose of congratulating the Chief Minister. By the rules of the debate, a member having spoken once was not permitted to speak again, a proceeding which could only result in adoption or rejection of the instrument as a whole. Not infrequent were remarks that the Constitution was not designed to be permanent and that many of its imperfections resulted from the necessity of getting an instrument to which the British would agree.³⁷ It is noteworthy that the important compromises reflected in the Constitution were reached generally within the private councils of the Alliance.³⁸ It should also be noted that though both the British and the Alliance Governments assumed a mandate in the latter to lead the nation to freedom and a constitutional form of

government and though more than 84 per cent of the electorate voted in the 1955 elections,³⁹ this figure represented less than 20 per cent of the total population. Moreover, only 16 per cent of the electorate was non-Malay,⁴⁰ and of this small number many Chinese remained away from the polls.⁴¹ However, seventeen of the fifty-one Alliance seats were won by non-Malays, all but two being from predominantly Malay districts.⁴²

The new Constitution came into being with the new nation on August 31, 1957, Merdeka⁴³ Day.

CONSTITUTION

A. Governmental Structure

The Constitution provides for a federal form of government composed of eleven separate entities—nine States and two Settlements. The chiefs of government of the former are their hereditary rulers; the chiefs of government of the latter are governors, appointed by the Supreme Head of the Federation, the Yang di-Pertuan Agong, for terms of four years.

The legislative authority of the Central Government, the Federation, is in a bicameral Parliament, consisting of the Yang di-Pertuan Agong and two Majlis (Houses of Parliament) known as the Dewan Negara (Senate) and the Dewan Ra'ayat (House of Representatives).

The Senate consists of members elected by the Legislative Assembly of each State, each State electing two, and of sixteen members appointed by the Yang di-Pertuan Agong. The influence of the Indian Constitution on this, as well as on many other provisions, is apparent. The Constitution provides that the appointed members shall be persons who, in the opinion of the Yang di-Pertuan Agong, 'have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative of racial minorities or are capable of representing the interests of aborigines.'⁴⁴ The term of office of members of the Senate is six years and is not affected by a dissolution of Parliament. The Constitution empowers Parliament to increase to three the number of Senators to be elected by each State, and to provide for the election of Senators by the direct vote of the electors of the State; and Parliament may decrease the number of appointed members or abolish the system of appointing members. All bills except money bills may

originate in the Senate. The Senate may delay legislation by withholding its assent, but it may not prevent the ultimate passage of legislation. If the Senate fails to pass without amendment money bills presented to it at least one month before the end of the session, the bills are nevertheless presented to the Yang di-Pertuan Agong for his assent, unless the House of Representatives specifically recalls them. Non-money bills not favourably passed by the Senate go over to the next session, where they may be re-enacted one year after the original enactment; and if re-enacted in their original form, the Senate may delay them only for one month, as in the case of money bills.

The Cabinet is appointed from the members of Parliament and is collectively responsible to Parliament. The Yang di-Pertuan Agong may appoint all cabinet members, except the Prime Minister, from either House. He makes these appointments on the advice of the Prime Minister. He must appoint the Prime Minister from the House of Representatives, and while he may exercise his discretion in this appointment, he is enjoined to appoint one 'who in his judgment is likely to command the confidence of the majority of the members of that House.'⁴⁵ If the Prime Minister ceases to command the confidence of the majority of the members of the House, he may either request the Yang di-Pertuan Agong to dissolve Parliament or tender the resignation of the Cabinet.

Although the Constitution is less explicit on the subject than it might be, it is apparent that the Yang di-Pertuan Agong is not free to withhold his assent to legislative enactments. No such right appears in the list of his discretionary functions, and from the injunction upon him to act in accordance with the advice of the Cabinet,⁴⁶ it follows that submitting enactments for his assent is purely a formal procedure.

In addition to those functions outlined above, the Yang di-Pertuan Agong is the Supreme Commander of the armed forces of the Federation. He has the power to grant pardons, reprieves and respites in all cases tried by courts-martial. He is also the Head of the Muslim religion in Malacca and Penang.

The Constitution creates a centralized federal judiciary possessing all judicial powers, except those permitted the Muslim courts in religious and personal law. Article 121 states, 'the judicial power of the Federation shall be vested in a Supreme Court and such inferior courts as may be provided by federal law.' In two instances, disputes between States or between the Federation and any State, the Supreme Court has original

jurisdiction. Otherwise, the Supreme Court has 'such original, appellate and revisional jurisdiction as may be provided by federal law.' The Constitution spells out the right of parties, whenever a constitutional question arises in a lower court, to apply to the Supreme Court for the determination of that question, effecting a stay of the lower court proceedings. The Supreme Court may determine the constitutional question and dispose of the case or remit the case to the lower court for further proceedings. The Supreme Court is required to give advisory opinions on constitutional questions upon the application of the Yang di-Pertuan Agong. Justices of the Supreme Court are appointed by the Yang di-Pertuan Agong. Under the original terms of the Constitution, the Yang di-Pertuan Agong was permitted to use his discretion in the appointment of the Chief Justice; but the Constitution has since been amended to require him to make all appointments to the Supreme Court on the advice of the Prime Minister. Recent amendment to the Constitution has abrogated the principle of permanent tenure for judges of the Supreme Court, although terms of office, including remuneration, may not be varied to the disadvantage of a judge once appointed. Removal of a Justice is possible if he misbehaves or becomes unable to discharge properly the functions of his office. Removal is effected by the Yang di-Pertuan Agong upon the recommendation of a special tribunal of Justices or former Justices of the Supreme Court or of similar courts in the Commonwealth. Pending the report of this tribunal, the Yang di-Pertuan Agong may, on the recommendation of the Prime Minister, suspend the justice from the exercise of his functions. The Constitution provides a procedure for appealing against certain decisions of the Supreme Court, including those involving constitutional issues, through the Yang di-Pertuan Agong, to the Judicial Committee of the British Privy Council. Parliament is at liberty to alter and to abandon this appellate procedure to the Privy Council. The Constitution forbids any discussion of the conduct of judges of the Supreme Court in State Legislative Assemblies and permits it in Parliament only on a substantive motion of which notice has been given by not less than one-fourth of the total number of members of the House planning the discussion.

Although the States possess the residual power not specifically enumerated in the Constitution, their position *vis-a-vis* the central government is weak. The exclusive central powers include such important subjects as external affairs, federal citizenship and naturalization, federal works and power, all matters of defence and

internal security, civil and criminal law procedure and the administration of justice, regulation of trade, commerce and industry, communications and transport, education, medicine and health, labour and social security, not to exhaust the list. State jurisdiction is exclusive in matters of Muslim religion and Muslim law, of land, local government, and in eight other related or minor subjects. Concurrent jurisdiction is shared by Federal and State governments in nine insignificant fields, such as scholarships and animal husbandry.

B. Fundamental Liberties

The Constitution lists nine subjects under Part II, termed Fundamental Liberties: (A) Liberty of the person, (B) Slavery and forced labour, (C) Retrospective criminal laws and repeated trials, (D) Equality, (E) Banishment and freedom of movement, (F) Speech, assembly and association, (G) Religion, (H) Education, (I) Property.

(A) Article 5(1) states: 'No person shall be deprived of his life or personal liberty save in accordance with law.' Clause (2), without employing the term *habeas corpus*, provides a procedure for inquiring into the detention of a person upon application to the Supreme Court or to any judge thereof. Clause (3) provides that a person arrested shall be informed promptly of the grounds for his arrest, and that he shall be allowed to consult and be defended by legal counsel of his choice. Clause (4) requires prompt arrangement before a magistrate within twenty-four hours of arrest. Clause (5) specifically exempts enemy aliens from the protection of Clauses (3) and (4).

(B) Article 6 (1) states: 'No person shall be held in slavery.' Clause (2) states: 'All forms of forced labour are prohibited'

(C) Article 7(1) prohibits *ex post facto* criminal laws. Clause (2) protects against double jeopardy.

(D) Article 8(1) provides: 'All persons are equal before the law and entitled to the equal protection of the law.' Clause (2) states: 'Except as expressly authorized 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.' Clause (3) prohibits discrimination in *favour* of any person because he is a subject of the Ruler of any State. Clause (4) provides: 'No

public authority shall discriminate against any person on the ground that he is a resident or carrying on business in any part of the Federation outside the jurisdiction of the authority.' Clause (5) exempts from the coverage of this article provisions: which regulate personal law, which are related to employment essentially religious in nature, which concern aborigines, including the reservation to them of land and 'a reasonable proportion of suitable positions in the public service', and which prescribe residence in a State as a qualification for voting or holding an elected or appointed office within that State, and in addition 'any provision restricting enlistment in the Malay Regiment to Malays.'

(E) Article 9 forbids banishment and guarantees to every citizen the right to move freely throughout the Federation and to reside in any part of it.

(F) Article 10(1) states : '(a) every citizen has the right to freedom of speech and expression; (b) all citizens have the right to assemble peaceably and without arms; (c) all citizens have the right to form associations.' But Clause (2) qualifies the grants of right of Clause (1). Sub-section (a) of Clause (2) permits Parliament to impose such restrictions on free speech and expression 'as it deems necessary in the interest of the security of the Federation, friendly relations with other countries, public order or morality, and restrictions designed to protect the privileges of Parliament or any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence.' Sub-section (b) permits Parliament to impose such restrictions on the right of peaceable assembly 'as it deems necessary or expedient in the interest of the security of the Federation or public order.' Sub-section (c) permits Parliament to impose such restrictions on the right to form associations 'as it deems necessary or expedient in the interest of the security of the Federation, public order or morality.'

It will be seen that the courts are not the guardians of the freedoms of speech, assembly and organization. These rights rest in the discretion of Parliament; for the grounds on which it may take away these great 'freedoms' are wide indeed, and the test purely subjective, in what Parliament deems 'necessary' or 'expedient'. These are the freedoms which are crucial to a democracy; for they protect the opposition's right to be heard. In this important area the Constitution is very different from the concept of the United States that perhaps the most important function of a written constitution is to protect the individual from abuse of

legislative power. Rather, we have here reflected the British view that constitutional determinations and protections rest in Parliament.

(G) Article 11, like Article 10, takes away a major portion of what it gives. For while it grants to every person the right to profess and practise his religion, it permits State law to control or restrict the propagation of any religious doctrine or belief among persons professing the Muslim religion. Such a provision may be more easily understood in light of the constitutional declaration that 'Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.'⁴⁷ There is scope for potential restrictions here; but the prevailing mood in Malaya has long been one of religious tolerance. Article 11 permits every religious group to manage its own affairs, to establish and maintain institutions for religious or charitable purposes, and to acquire, own and hold property.

(H) Subject to special aid for Muslim institutions, Article 12 prohibits discrimination 'on the grounds only of religion, race, descent or place of birth — (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees, or (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside the Federation).' Clause (2) permits every religious group to establish and maintain educational institutions and to provide instruction in its own religion in them. It permits provision by Federal law for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion.

(9) Article 13 states, 'No person shall be deprived of property save in accordance with law.'

CITIZENSHIP

The Constitution is exceptionally detailed on matters of citizenship, a fact explained by the unusual social complexity of the nation and by the previous example of constitutional instruments which dealt with like explicitness with the subject. Citizenship may now be acquired by operation of law, by registration, by naturalization, and by incorporation of territory.

While citizenship by operation of law as to persons born before Merdeka Day tends to favour Malays because it confers citizenship on those who were citizens by virtue of the Federation Agreement, complete equality exists for those born within the Federation after Merdeka Day. Citizenship by registration is liberal. It permits the grant of citizenship to persons over eighteen born in the Federation and who have resided there for periods as short as five years. Citizenship by naturalization may be conferred on those who have resided in the Federation for a minimum of ten years.

Although Malays have some advantages as to citizenship, they appear to be of limited duration. Whereas non-Malays are generally obliged to apply for citizenship while Malays are not, presumably freeing Malays from the disadvantages of civic indifference or lethargy, still it is apparent that interested persons born in the Federation with a reasonable investment of their lives there may secure citizenship. A requirement that those seeking citizenship by naturalization, as well as those seeking it by registration one year after Merdeka Day, shall have a knowledge of the Malay language works against the non-Malay communities. Nevertheless, it seems not an unreasonable requirement that potential citizens resident in a country upwards of five and ten years have a knowledge of the official language as a prerequisite to citizenship.

The Constitution permits those who have acquired citizenship by registration or naturalization to be deprived of their citizenship by administrative action, completely free from judicial review. Article 25 enables the Federal Government by order to 'deprive of his citizenship any person who is a citizen by registration under Article 17 or a citizen by naturalization if satisfied—(a) that he has shown himself by act or speech to be disloyal or disaffected towards the Federation; (b) that he has unlawfully traded with the enemy during war; (c) that he has been sentenced to imprisonment for one year or a fine of five thousand dollars within five years of his acquisition of citizenship. The Government has already demonstrated, during the first four year of its life, a very extensive use of its great powers under this article. Article 27 provides that one against whom the order of deprivation of citizenship is proposed, has a right to have the case referred to a committee of inquiry, 'consisting of a chairman (being a person possessing judicial experience) and two other members appointed by the Government for that purpose.' This committee is purely advisory in character; for, the article further provides: 'In the case of any such reference, the committee shall hold an

inquiry in such manner as the Federal Government may direct, and submit its report to that Government; and the Federal Government shall have regard to the report in determining whether to make the order.' This provision is perhaps more noteworthy for what it does not provide. There is no provision giving the accused the right to appear before the commission, to have counsel, to confront witnesses, or to produce evidence. Not only is the committee *ad hoc* but so is its procedure. As indicated, the Government is not bound in any way by the report of its committee. In this area of citizenship, rivalled in importance perhaps only by the right to life, the Constitution departs dramatically from the concept of the rule of law.

COMPARISON WITH OTHER CONSTITUTIONS

It would scarcely be feasible, and it would surely not be desirable, to draft a modern constitution without reference to the constitutional experience of other nations. It is possible to see similarities between the Constitution of the Federation of Malaya and a number of others. Obviously it owes a great deal to the Constitution of Great Britain: the parliamentary system, cabinet responsibility; the place of the king in the legislative process; the concentration of legislative power in one house with the function of the other largely limited to debate and perhaps to delay; appointive members in the weaker chamber—all of these and many other provisions are manifestly British in inspiration.

At the same time the influence of the Constitution of the United States—direct or derivative—is also apparent: the very fact of a written constitution; a federal form of government; some protection to fundamental rights, the role of the Supreme Court—these are all provisions first found in the American Constitution.

But the constitution whose influence was most immediate and direct was that of India. The text of the Federation of Malaya Constitution, printed by the Government Printer in 1959, lists in a comparative table no fewer than 89 of the Constitution's 181 articles as having some connection with the Indian Constitution. In many instances the connection is a simple paraphrasing. For example, the Parliamentary limitations on the freedom of speech, assembly and association are reproduced almost verbatim from the corresponding Indian provisions (although the Indian test of reasonableness was avoided for the highly subjective test of expediency). The weak role of the States, the detailed

legislative lists, the specific rather than general provisions, even the Constitution's length—all acknowledge the Indian influence.

NOTEWORTHY PROVISIONS

Several provisions of the Malayan Constitution, in addition to those already discussed, merit particular attention.

The Constitution provides for a third body whose functions are both executive and legislative, although rigidly limited in both spheres. The *Majlis Raja-Raja* (Conference of Rulers) consists of the rulers of the nine States, who are joined for certain functions by the two Governors of the Settlements. One of its most important functions is the election of the *Yang di-Pertuan Agong* from among its number for a term of five years. It may also remove the *Yang di-Pertuan Agong*. The *Majlis Raja-Raja* determines the extension of any religious acts, observances or ceremonies to the Federation as a whole. Laws altering the boundaries of a State or affecting the privileges, position, honours or dignities of the Rulers require the consent of the *Majlis Raja-Raja*, which consent it may withhold. The Conference may deliberate on questions of national policy or any other matter that it thinks fit; but in such deliberations it is joined by the Prime Minister of the Federation and by the Chief Ministers of the States and Settlements. In these deliberations the Rulers are enjoined by the Constitution to proceed in accordance with the advice of their respective Cabinets. The Governors are not included in the Conference for the election or removal of the *Yang di-Pertuan Agong*, nor for discussion concerned with religious acts, observances or ceremonies.

Reference has already been made to the office of the *Yang di-Pertuan Agong*. The office compares in many ways with that of the Queen of England. It is royal and ceremonial. The person of the *Yang di-Pertuan Agong* and his consort in endless appearances throughout the country are used as a symbol and force for unity. Like the English Queen, he has a purely formal role in the legislative process. His selection of a Prime Minister is listed among his discretionary functions; but it would be difficult to argue that any more discretion is involved here than in England; for, of course, the choice is dictated by political considerations over which the monarch has no control. He may withhold his consent to a request for dissolution of Parliament, an issue that has not yet arisen in the life of the country. The *Yang di-Pertuan Agong* has additional powers of appointment within his discretion which are not without

significance. He appoints all the members of the Public Service Commission and the Railway Service Commission and two members of the Police Force Commission.

The Yang di-Pertuan Agong is designated as the Supreme Commander of the Armed Forces, in language closely paralleling that of the 2nd Article of the United States Constitution. But unlike the President of the United States, who can personally commit troops to battle (although formal declaration of war is the prerogative of Congress) and who is actually the supreme tactician in war, if he chooses to be, the Yang di-Pertuan Agong's command functions are exercised on the advice of Government Ministers.

The Yang di-Pertuan Agong's role as a religious figure is important. He is the head of the Muslim religion in both Malacca and Penang, which are without hereditary rulers; and he represents the Conference of Rulers in those religious acts, observances and ceremonies which extend to the Federation as a whole.

The selection of the Yang di-Pertuan Agong is singular among modern nations. It has been compared with the method by which the Catholic hierarchy selects its spiritual head, who also is the temporal ruler of the Vatican. But the comparison is not really apt, except perhaps that both electorates are small and are composed of equals, in a very real sense, with the member actually chosen. The Conference of Rulers (limited to the nine hereditary members) was required by the Constitution to elect the first Yang di-Pertuan Agong from among their number in accordance with the precedence which they then recognized themselves, with the other members listed in accordance with their then precedence. For subsequent election the members are expected to select the next ruler on the list, unless he is a minor—which automatically disqualifies him—or unless he declines the office, or unless the Conference, by secret ballot, resolves that he is unsuitable for any cause. (The Conference did in its second election pass over a ruler). A election causes the list to be reconstituted with the State whose ruler was elected dropping off the list for the time of his holding office and going to the bottom of the list when he vacates the office. A change in rulers in one of the States causes the list to be reconstituted, with that State going to the bottom of the list.

Unlike the Roman Pope, the Yang di-Pertuan Agong is elected for a limited term—of five years; and the method of reconstituting the list, as above mentioned, precludes his immediate re-election. (The fact of one

man making his way to the top of the list more than once in a lifetime is remote but not, of course, impossible). In fact, the Federation, now only four years old, has its third Yang di-Pertuan Agong, the first two having died in office after very short reigns.

The Conference of Rulers may remove the Yang di-Pertuan Agong from office by a vote of five of its nine members. During his term of office the Yang-di-Pertuan Agong may not exercise the functions of Ruler of his State, except those of Head of the Muslim religion. His temporal functions in his own State may be handled by others in such way as the State Constitution or laws may provide. Some form of regency is usual. Should the Yang di-Pertuan Agong, during his period of office, cease to be Ruler of his own State, his office as head of the Federation's Government automatically terminates.

Article 153(1) of the Constitution states: 'It shall be the responsibility of the Yang di-Pertuan Agong to safeguard the special position of the Malays and the legitimate interests of the other communities in accordance with the provisions of this Article.'

Article 153 is one of the most controversial in the Constitution.

Clause (2) states:

'Notwithstanding anything in this Constitution, but subject to the provisions of Article 40⁴⁸ and of this Article, the Yang di-Pertuan Agong shall exercise his function under this Constitution and federal law in such manner as may be necessary to safeguard the special position of the Malays and to ensure the reservation for Malays of such proportion as he may deem reasonable of position in the public service (other than the public service of a State) and of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by the Federal Government and, when any permit or licence for the operation of any trade or business is required by federal law, then, subject to the provisions of that law and this Article, of such permits and licences.'

Clause (3):

'The Yang di-Pertuan Agong may, in order to ensure in accordance with Clause (2) the reservation to Malays of position in the public service and of scholarships, exhibitions and other educational or

training privileges or special facilities, give such general directions as may be required for that purpose to any Commission to which Part X applies⁴⁹ or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.'

Clause (4):

'In exercising his functions under this Constitution and federal law in accordance with Clauses (1) to (3) the Yang di-Pertuan Agong shall not deprive any person of any public office held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.'

Clause (5):

'This Article does not derogate from the provisions of Article 136.'⁵⁰

Clause (6):

'Where by existing federal law a permit or licence is required for the operation of any trade or business the Yang di-Pertuan Agong may exercise his functions under that law in such manner, or give such general directions to any authority charged under that law with the grant of such permits or licences, as may be required to ensure the reservation of such proportion of such permits or licences for Malays as the Yang di-Pertuan Agong may deem reasonable; and the authority shall duly comply with the directions.'

Clause (7):

'Nothing in this Article shall operate to deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him or to authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of a person any permit or licence when the renewal or grant might reasonably be expected in the ordinary course of events.'

Clause (8):

'Notwithstanding anything in this Constitution, where, by any federal law any permit or licence is required for the operation of any trade or business, that law may provide for the reservation of a proportion of such permits or licences for Malays; but no such law shall for the purpose of ensuring such a reservation—

(a) deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or

(b) authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of any person any permit or licence when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business; or

(c) where no permit or licence was previously required for the operation of the trade or business, authorise a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been *bona fide* carrying on, or authorise a refusal subsequently to renew to any such person any permit or licence, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or licence when the renewal or grant might in accordance with the other provisions of that law be expected in the ordinary course of events.'

Clause (9):

'Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservation for Malays.'

Clause (10):

'The Constitution of the State of any Ruler may make provision corresponding (with the necessary modifications) to the provisions of this Article.'⁵¹

Article 153 is noteworthy in many respects. It is careful not to deprive non-Malays of existing property rights which they may possess as

individuals, including certain expectations; but the preferences given to Malays are great, indeed. At first glance it might appear that the rationale behind this Article is comparable to that of Article 15(4) of the Indian Constitution, which protects the backward and scheduled classes; for Malays as a race are not as economically strong as the other major race, the Chinese, nor are they as well educated, as a group. And these provisions are, in fact, defended on the grounds that they are needed to bring the Malays up to a level to compete with the other racial groups. But they are strikingly different from the Indian provision in one important aspect. In India the backward classes whom Article 15(4) is designed to reach do not now hold the reins of Government; they are not the major existing political force comprising the greatest part of the electorate, as are the Malays in Malaya.

It is one thing for a politically weak group to possess specially entrenched constitutional privileges. It is something else again when the politically dominant group is the holder of such privileges. One is hard put to find an instance in history where a race possessing special privileges and the controlling political power has freely relinquished the former. The modern world is replete with contrary examples. One need only refer to the reluctance with which Western European colonial elements are willing to share privileges or power with the indigenous races of East Africa; the total intransigence of the governing elements of the Union of South Africa to share either power or privileges with the elements of the population which they dominate; or the slow and often frustrating necessity in the United States to bludgeon the ruling white elements in Southern States with the power of the national law to compel them to share equally educational facilities with the Negro population, which they control. Article 153, as it now stands in the Malayan Constitution, departs in a significant way from the recommendations of the Constitutional Commission, which was not unmindful of its potential dangers. The Commission proposed to limit the special privileges to those which were in force on Merdeka Day, and it also provided that the subject of the special privileges be reviewed by the appropriate legislature every fifteen years,⁵² with the view to their eventual abolition. The Commission explained that while it had found little opposition to the continuance of Malay preferences for a time, there was great opposition to their increase and to their continuance for a prolonged period.⁵³ It is possible to argue that the Commission had, itself, failed to go far enough in not providing a binding terminal date for the special privileges. The

determination of Malays to perpetuate these privileges may be gathered from Article 159, which requires the consent of the Conference of Rulers to a constitutional amendment to Article 153, although generally the power to amend the Constitution is in Parliament alone.

Implementation of the special privileges is an active element in Government policy, not always with the result anticipated. Reference is frequently made in the public press to instances in which Malays have been awarded licences, as to engage in public transport, only to sell them to one of the other racial groups, thus frustrating the intentions of Government. It is also not difficult to foresee the danger in the disaffection of the youth of the other races, who may as individuals be better qualified and otherwise more deserving, when they are passed over for government scholarships or employment in favour of a Malay. If his personal needs are great, he may find it less than consoling to know that he is from a racial group which *en masse* is better off than the Malays.

It may be noted here that the Constitution, which defines the term 'Malay', eschews a definition in the expected racial terms. Article 160 states: "Malay" means a person who professes the Muslim religion, habitually speaks the Malay language, conforms to Malay custom and—

- (a) was before Merdeka Day born in the Federation or born of parents one of whom was born in the Federation, or is on that day domiciled in the Federation; or
- (b) is the issue of such a person.

It is apparent that theoretically many Chinese, Indians, Europeans, or even others, can, under these terms, be Malays, if they choose, and therefore become eligible for the special privileges of that group. It must be said, however, that public utterances of Government Ministers and others make clear that the practical definition of 'Malay' is in the traditional terms of race. Indeed, the word 'Malayan' is the generic term commonly used to embrace those who are not racially Malay with those who are. The issue is, and may remain, academic; for no court has yet been called upon to declare the rights of a person racially non-Malay, claiming under the language of the Constitution, the privileges of a Malay.

Noteworthy are the very extensive 'Special Powers against Sub-version, and Emergency Powers' conferred on Parliament by Articles 149 through 151. Article 149 provides:

'(1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation—

- (a) to cause, or to cause a substantial number of citizens to fear, organized violence against persons or property; or
- (b) to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation; or
- (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or
- (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
- (e) which is prejudicial to the security of the Federation or any part thereof.

any provision of that law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Articles 5, 9, or 10^{53a}, or would apart from this be outside the legislative power of Parliament . . .'

So sweeping are the terms of this Article that they totally deprive the individual of judicial protection both from deliberate Parliamentary abuse and, more importantly, from the effects of hasty and hysterical legislative action. It is apparent that for an enactment under this Article to be constitutional it is not necessary that there, in fact, has been taken or threatened any action by anyone, but only that the Act of Parliament 'recite' that such action has been taken or threatened. And if the Act contains such a recital, then Parliament is completely without limit as to the repressive measures it may take, including imprisonment, banishment or denial of free speech, assembly and association. Nothing in the language of this Article would appear to prevent its use against an ordinary industrial strike of employees, which generally contains the potentiality or threat of violence to persons or property. While laws enacted under this Article have a life of only one year, they may be re-enacted by Parliament. 'Disaffection' is an amorphous term and the exciting of it against a Government may be thought to be a normal activity of opposition parties; similarly, what promotes 'feelings of ill-will and hostility between different races or other classes of the population likely to cause violence' may be a political catch-all capable of holding a variety of repressive legislation.

Article 150 states,

'If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, whether by war or external aggression or internal disturbance, he may issue a Proclamation of Emergency.'

Such a proclamation must be laid before Parliament, which has the power to annul it, but not to the prejudice of any executive action taken prior to the resolution of annulment.

Article 151 permits detention without trial under the authority of the emergency proclamation. A detainee is entitled to be informed of the grounds of his detention; and a citizen may not be detained longer than three months without being afforded the right to appear before a special advisory board, whose determinations, however, are not binding upon the Government. Non-citizens do not have this right of review by the advisory board. Even as to citizens the executive authority is not required to disclose to the advisory board facts whose disclosure would in its opinion be contrary to the national interest.

Of special interest to the constitutional lawyer is Article 162, in Part XIII, Temporary and Transitional Provisions.

Article 162 states in Clause (1):

'Subject to the following provisions of this Article and Article 163, the existing laws shall, until repealed by the authority having power to do so under this Constitution, continue in force on and after Merdeka Day, with such modifications as may be made therein under this Article and subject to any amendments made by federal or State law.'

Clause (4):

'The Yang di-Pertuan Agong may, within a period of two years beginning with Merdeka Day, by order make such modifications in any existing law, other than the Constitution of any State, as appear to him necessary or expedient for the purpose of bringing the provisions of that law into accord with the provisions of this Constitution; but before making any such order in relation to a law made by the Legislature of a State he shall consult the Government of that State.'

Clause (5):

'Any order made under Clause (4) may be amended or repealed by the authority having power to make laws with respect to the matter to which the order relates.'

Clause (6):

'Any court or tribunal applying the provision of any existing law which has not been modified on or after Merdeka Day under this Article or otherwise may apply it with such modifications as may be necessary to bring it into accord with the provisions of this Constitution.'

Clause (7):

'In this Article "modification" includes amendment, adaptation and repeal'.

Article 4 must here be noted. It states in Clause (1):

'This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.'

Article 162, in its Clause (4) provided a ready means by which the Executive might have reconciled inconsistent previous legislation with the requirements of the new Constitution. However, only insignificant use was made of this clause. This is not really surprising; for the life of the clause was limited to two years and it is manifest that a new national government succeeding to power from a colonial regime will have so much to do in the first two years of its life as to preclude any substantial review of a mass of pre-existing legislation to determine the application to it of a newly drafted constitution.

Much more surprising, however, is the very restrictive reading given this Article by the courts in reference to their powers under Clause (6), which—significantly— is without time limit. The intent of the Constitution-makers in Article 162 seems clear enough. Apparently they wished to arm the court with ample authority to preserve the sense and general application of any relevant pre-existing law which might in some of its provisions conflict with the new mandates of the Constitution. The power given to the courts by this clause is considerable; for they are made legislatures for the purpose of disposing of a case then before them.

Naturally, Parliament would be free to make such modifications in the law for prospective situations as it might deem fit in the light of the court's decision. But, for the litigation then pending, Article 162(6) gave the courts the opportunity to mould the law, as well as to apply it. In the most important constitutional case yet to reach the Court of Appeal, *Government of the Federation of Malaya v. Surinder Singh Kanda*,⁵⁴ the Court of Appeal neglected the opportunity to use Article 162(6), with a result which can hardly be said to produce a harmonious constitutional interpretation. In that case Inspector Kanda was appealing from his dismissal from the Royal Federation of Malaya Police by the Commissioner of Police. A primary contention of Inspector Kanda was that his dismissal had been effected by an authority subordinate to that which at the time of the dismissal had power to appoint a member of the Police Force of his rank, contrary to Article 135(1) of the Constitution. Article 135(1) provides: 'No member of any of the services mentioned in paragraphs (b) to (g) of Clause (1) of Article 132⁵⁵ shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank.'

By the Police Ordinance, 1952 (prior, of course, to the effective date of the Constitution), the Commissioner of Police had the power to dismiss one of Inspector Kanda's rank. Article 140 (subsequently amended but which amendment is not relevant here) created a Police Service Commission, the words of the Article being, in Clause (1): 'There shall be a Police Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the Police service.' Article 144(1) states, 'Subject to the provisions of any existing law and to the provisions of this Constitution, it shall be the duty of a Commission to which this Part applies to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the service or services to which its jurisdiction extends.' A majority of the Court reached the conclusion that the phrase in Article 144 'subject to the provisions of any existing law,' kept in force the 1952 Police Ordinance, giving the Commissioner of Police the power that he exercised in this case. The majority specifically considered the power that it possessed to modify the Police Ordinance, 1952, and, curiously, declined to exercise that power. An appeal was taken to the Privy Council, and in a decision recently reported,⁵⁶ that body reversed the ruling of the Court of Appeal. Lord

Denning, in his opinion found that it was incumbent upon the Federation Court to give effect to Art. 162(6) and modify pre-existing law inconsistent with the Constitution in such way as to give effect to the supremacy of the Constitution.⁵⁷

The first case decided under the Constitution by a High Court Judge displayed a similar conservative approach to the scope of the Constitution. In this case⁵⁸ the Restricted Residence Enactment of 1933,⁵⁹ as amended,⁶⁰ was challenged as repugnant to Article 5. The essential provisions of the enactment state:

'Whenever it shall appear to the Resident on such written information and after such enquiry as he may deem necessary that there are reasonable grounds for believing that any person should be required to reside in any particular district . . . in the State or should be prohibited from entering into any particular district or districts . . . in the State, the Resident may issue an order . . . for the arrest and detention or, if he is already in prison, for the detention of such person.'

Further,

'The Resident thereafter after such further enquiry as he may deem necessary shall lay before the Ruler of the State a written statement of the grounds on which it appears desirable to him that an order should be made . . . and thereupon the Ruler may . . . make an order . . . that from a date . . . such person do reside in such district . . . or do not enter into such district or districts . . . as may be so specified.'⁶¹

The question for decision as framed by the court was 'whether, when the Constitution, Article 5(3), says a person arrested shall be allowed to be defended by a legal practitioner, it refers to persons arrested under the Restricted Residence Enactment.'⁶² The court answered this question in the negative. It held that the right to be defended presupposes a right to be heard, which was here lacking since the *Mentri Besar* is under no obligation to hold an enquiry at all. Although the court stated that this alone was sufficient ground to dismiss the application for *mandamus* to be represented and to call witnesses at the enquiry, the court broadened the scope of the case considerably by also holding that 'Article 5, as a fundamental liberty, was intended to be merely declaratory of existing law . . . that is, the law anterior to the Constitution.'⁶³ The court also

expressed its opinion that Article 5(3) applied only to arrests under the Criminal Procedure Code and not to executive acts. The Deputy Prime Minister, speaking for the Government, has specifically approved of the decision, with pointed reference to the aspect of the holding that Article 5(3) has no application to administrative inquiries.⁶⁴ Others have criticized the decision for limiting the scope of the Constitution and for its reference to English cases, 'because in England there is no such constitutional right.'⁶⁵

RECENT DEVELOPMENTS

The Constitution authorizes the admission of other States to the Federation. It is silent as to the terms or conditions of admission. Currently talks are in progress looking toward some union of Singapore, North Borneo, Sarawak and Brunei with the Federation. Press releases on the talks indicate that they are proceeding on the assumption that the Constitution will not be interpreted as has that of the United States, as requiring that all new States must be admitted on a basis of equality with the existing units,⁶⁶ but that special conditions may attach to the admission of each new State. No decision of a court in Malaya has been rendered on this proposition.

Since its coming into existence four years ago the Constitution has been amended in a large number of minor and a few important instances. In general, the tenor of the major amendments has been to strengthen the federal government. Such an amendment is the new Chapter 7, creating a National Council for Local Government. Article 95A(5) states, 'It shall be the duty of the National Council for Local Government to formulate from time to time in consultation with the Federal Government and the State Governments a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto; and the Federal and State Governments shall follow the policy so formulated.' The National Council to which this very extensive power is given, is composed of representatives from the States and from the Federal Government in equal numbers, with the Chairman, a Minister of the Federal Government, having a casting vote.

The amendment to the article on subversion, Article 149, added to the grounds justifying Parliament's overriding the 'Fundamental Liberties' in the name of security, those of exciting disaffection against the Yang di-Pertuan Agong or any Government in the Federation and promoting

feelings of ill-will and hostility between different races or other classes of the population likely to cause violence, as well as procuring the alteration, otherwise than by lawful means of anything by law established, or acting prejudicial to the security of the Federation or any part of it.

In the same category of increasing the power of Government is the amendment taking from the Yang di-Pertuan Agong his discretion in the appointment of the Chief Justice and obliging him to act on the advice of the Prime Minister.

Amendments in 1962 have continued in the direction of strengthening the executive and legislative branches of the government. Notable among recent amendments is one vastly reducing the independent powers of the constitutionally created Election Commission, both by abrogating the guarantee of tenure of the commission members and by transferring from the commission to the House of Representatives the power of delimiting electoral constituencies.

It is not necessarily a meaningful exercise to compare the constitution of one country with that of another. A constitution must meet the needs of the country for which it was designed. Even the words of a constitution fail to tell the entire story; for they take their meaning not only from the interpretation given them by judges in infrequent constitutional cases but more importantly from the behaviour of the executive and legislative branches and of the people themselves, in response to what they think the commands and ideals of the constitution are. The problems which have been and are being met by the new Malayan nation are tremendous. It succeeded in suppressing an overt armed Communist threat. It has the task of taking over its own administration from a colonial power, of creating and insuring a viable economy, of meeting the expanding needs and expectations of a growing population, of welding a unified nation out of exceedingly diverse racial, linguistic and religious elements. These are problems which might well strain the constitutional fabric of mature democracies. While complete agreement on methods should never be expected and would probably be undesirable in a free society, the Malayan nation surely merits commendation for its success to date in meeting its problems within the framework of a democratic constitution.

NOTES AND REFERENCES

1. Spencer, 'Independent Malaya: The Problems of Malayization', *Foreign Affairs Reports* 53, 55 (May 1958); see also, *Monthly Statistical Bulletin of the Federation of Malaya*, July, 1961, Department of Statistics, Federation of Malaya.

2. Emerson, *Malaysia*, pp. 12-13 (1937).
3. *Ibid.*, at p. 14.
4. Maxwell and Gibson, *Treaties and Engagements Affecting the Malay States and Borneo*, p. 88 (1924).
5. Carrington, *Malaya and Singapore*, p. 2 (1956).
6. U.S. Dept. of State, *Malaya: Trouble Spot in South-East Asia*, p. 7 (1953).
7. Payne, *The Revolt of Asia*, pp. 258-59 (1948).
8. The term 'Malaysians' is not carefully defined and is one only recently coming into use. It is apparently intended to include Malays, Indonesians and the Aborigines.
9. *Monthly Statistical Bulletin of the Federation of Malaya*, July, 1961, Department of Statistics, Federation of Malaya.
10. Sington, *Malayan Perspective*, p. 7 (1953).
11. Payne, *op. cit.*, note 7, at pp. 259-60.
12. Sadka, *Constitutional Change in Malaya: A Historical Perspective*, *The Australian Outlook*, p. 19 (1957).
13. Mills, *American Policy Regarding South-East Asia*, p. 17 (1954).
14. Owens, 'The Malayan Tin Mining Industry,' *Eastern World*, p. 49 (Aug. 1957).
15. Zinkin, *Asia and the West*, pp. 160-61 (rev. ed. 1953).
16. Emerson, *op. cit.*, note 2, at pp. 26-77.
17. Comber, 'Chinese Secret Societies and Merdeka', *Eastern World*, p. 39 (1957).
18. [1948] I Stat. Instr. 1231 (No. 108).
19. *Federation of Malaya, Legislative Council Debates, Thirteenth and Fourteenth Meetings of the First Session of the Second Legislative Council*, Col. 929 (1956).
20. Emerson, *op. cit.*, note 2, at pp. 20-31.
21. Compare 'An Enactment for the Protection of Indian Immigrants,' Vol. 1, 1883-99, *The Laws of Negri Sembilan*, pp. 13-36 (1904) with 'An Enactment to Regulate the Employment of Chinese Labourers in Mines,' *State of Negri Sembilan Enactments Passed in Council in 1904*, pp. 83-104.
22. Emerson, *op. cit.*, note 2, at pp. 16-31.
23. [1946] I Stat. Rules and Orders, p. 543 (No. 463).
24. Vinacke, *Far Eastern Politics in the Post-war Period*, p. 325 (1956).
25. *Ibid.*, at p. 329.
26. See, generally, Constitutional Proposals for Malaya, Report of the Consultative Committee (1947).
27. Sadka, *op. cit.*, note 12, at pp. 24-25.
28. [1948] I Stat. Instr. p. 1231 (No. 108).
29. Sadka, *op. cit.*, note 12, at pp. 25-26.
30. *Ibid.*
31. [1951] *Federal Ordinances and State and Settlement Enactments*, p. 117 (No. 17).
32. [1952] *Federal Ordinances and State and Settlement Enactments*, p. 155 (No. 23).
33. See, generally, 21, *The Malayan Law Journal*, xix (1955); Vinacke, *op. cit.*, note 24, at p. 337.
34. *Federation of Malaya, Legislative Council Debates, Fifth to Twelfth Meetings of the First Session of the Second Legislative Council*, Col. 155 (1955).

35. Colonial Officer, *Report of the Federation of Malaya Constitutional Commission*, p. 5 (1957).
36. *Ibid.*, at 5-10.
37. *Federation of Malaya, Legislative Council Debates, Thirteenth and Fourteenth Meeting of the Second Session of the Second Legislative Council*, Cols 2837-3006.
38. *Ibid.*, at Col. 2861.
39. *The Malayan Law Journal*, xix (1955).
40. *Federation of Malaya, Legislative Council Debates, First and Second Meetings of the First Session of Second Legislative Council*, Col. 24 (1955).
41. Taussig, 'The New Malaya,' *Eastern World*, 36 (Aug. 1957).
42. *Federation of Malaya, op. cit.*, note 40 at Col. 23.
43. 'Freedom.'
44. Art. 45.
45. Art. 43.
46. Art. 40. Cl. 1.
47. Art. 3, Cl. 1.
48. Art. 40 requires the Yang di-Pertuan Agong to act generally in accordance with the advice of the Cabinet.
49. Part X applies to the Public Services, which include the armed forces, the judicial and legal service, the general public service of the Federation, the police force, the railway service, services common to the Federation and one or more States or to two or more States, and the service of each States.
50. 'All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.'
51. Such a provision has been made in the State constitutions concerned.
52. Colonial Office, *op. cit.*, note 35, at Art. 157.
53. *Ibid.*, at page 72.
- 53a. Fundamental liberties. See *supra*, pp. 117-18.
54. (1961) 27 Malayan L.J. 121
55. This includes all of the services mentioned in note 49, *supra*, except the armed forces.
56. *Surinder Singh Kanda v. The Government of the Federation of Malaya*, (1962) 28 M.L.J. 169.
57. Although the Privy Council found the dismissal of Inspector Kanda for want of necessary authority in the Commissioner of Police, the Constitution having lodged such authority in the Police Service Commission, the Privy Council was of the further opinion that Inspector Kanda had been denied the Constitutionally guaranteed right of a reasonable opportunity of being heard at the early stage of his case before an administrative adjudicating officer.
58. *Chia Khin Sze v. The Menteri Besar, State of Selangor*, (1958) 24 M.L.J. 105.
59. *The Laws of the Federated Malay States*, Chapter 39 (1935).
60. *Malayan Union and Federal Ordinance and State and Settlement Enactments, 1948*, Federation of M No. 4 of 1948 and No. 13 of 1948.
61. The Menteri Besar has replaced the Resident, and the former term is to be read into the statute wherever the latter appears.

62. *Chia Khin Sze v. The Mentri Besar, State of Selangor*, (1958) 24 M.L.J. 105 at 107.
63. *Ibid.*
64. *Federation of Malaya, Legislative Council Debates, Sixteenth and Seventeenth Meetings of the Third Session of the Second Legislative Council*, Col. 448 (1958)
65. (1958) 24 M.L.J. xli-xlii.
66. See, e.g., *Coyle v. Smith*, 221 U.S. 559 (1911).

5

The New Malaya

TUNKU MOHAMED*

The Federation of Malaya, or to give its correct name The Persekutuan Tanah Melayu, covers an area which is between latitudes 1° and 7° North and longitudes 100° and 105° East. It is slightly smaller than East Pakistan and three-fourths of it is still jungle. A central chain of mountains rising to more than 7,000 feet divides East Malaya from West Malaya. It has a coast-line of 1200 miles, an average rainfall of 90 inches and a remarkable climate with a maximum temperature of 90°F and a minimum of 74°F. We have only one season. Although we also have the rainy season and the dry season, one can never trust the weather; even during the driest months we can expect the rain.

The Federation of Malaya is made up of 11 States, nine of them having their own constitutional Rulers as the Head of Government, and the remaining two having each a Governor. This distinction results from the fact that the nine States were independent Malay States under British protection and the other two were British colonies. The constitution of the Federation of Malaya, before its independence, was that the nine Malay States had treaties with the British Government providing for British protection against external aggression. In return the Malay Rulers agreed to accept a British officer in their respective States whose advice

* Formerly High Commissioner of the Federation of Malaya in Pakistan.

had to be taken except on matters relating to religion and Malay customs. These treaties were freely entered into between each of the Rulers on the one side and the British Government on the other. The preamble to these treaties had the following words: "In token of friendship which His Majesty the King bears on His Highness the Sultan...."

The two Settlements of Malacca and Penang were British colonies and as such had not the same political status as the Malay States. However, with independence, the British Government declared that these two Settlements should cease to form part of the Queen's Dominions and that Her Majesty the Queen of Great Britain should cease to exercise any sovereignty over them. Thus, we find today that these two Settlements became the State of Malacca and the State of Penang, each under a Governor, and the nine Malay States continued to retain their original status. All the eleven States became component parts of the Federation of Malaya on an equal basis.

Malaya attained its independence by peaceful means. We are proud of this fact, because we feel we have set an example to the world that the birth of a nation can come to pass peacefully and happily. A further fact regarding the birth of the New Malaya is that we have inherited, what I might call, a running concern.

Attainment of independence without bloodshed was by no means an easy achievement as the problems we had to face were two-fold. We had to come to agreement with the British Government, and we had to agree amongst ourselves and put up a united demand. With a multi-racial nation consisting of 3 million Malays, 2.25 million Chinese and about .75 million Indians, this was a difficult and complicated business. Since all these races differ in religion, customs and outlook on life, it required leadership of the highest order to weld the diverse people into one solid community. The credit for this achievement goes almost entirely to our Prime Minister, Tunku Abdul Rahman, who as the Head of the United Malays National Organisation received the full confidence and support of the Malayan Chinese Association and the Malayan Indian Congress. These three organisations formed an alliance and jointly, as a body, put up proposals to the British Government for the complete independence of the Federation of Malaya. These proposals received the blessings of Their Highnesses the Rulers of the Malay States, without whose concurrence no change in the status of the country could be effected.

I would now like to say something about the salient features of our new constitution. Before I do so, I would like to say that perhaps the

constitution does not satisfy fully all the elements of the population, but with the country's multi-racial population the present constitution is the best that could be achieved.

This constitution was originally drafted by an independent body of constitutional experts from the United Kingdom, Australia, Pakistan and India. I would like to take this opportunity of expressing our gratitude to the Pakistani member Mr. Justice Abdul Hamid, who took a very prominent part in framing the draft constitution. I would add that a great deal of the minority report submitted by Mr. Justice Abdul Hamid was incorporated in the constitution in its final form.

Under the constitution Islam is the religion of the Federation but other religions may be practised in peace and harmony. The national language is the Malay language, but no one is prohibited or prevented from using (otherwise than for official purposes), teaching or learning any other language. For a period of 10 years after independence, and thereafter until Parliament otherwise provides, English may be used in the legislatures and for official purposes.

As in other enlightened democracies, our constitution recognises the liberty of person, freedom of speech and equality before law.

I mentioned just now that the people of Malaya are of many races. Not all of them are however Federal citizens. It is the intention of the Malay Government to allow as many as possible of these alien races (who are loyal to the Federation) to become nationals of the new Federation and so entitle them to franchise. A short-term of residence is all that is necessary to qualify them to make applications for citizenship. The new citizenship law enables a person, not born in the Federation, but who has been residing in it for a period amounting in the aggregate to not less than 8 years out of the past 12 years, to make an application to the appropriate authority to become a citizen of the Federation. Generally speaking it would be a simple matter for those who wish to acquire citizenship, provided they were residents of the Federation of Malaya or were born there before independence. In the case of the latter category, 5 years' residence is all that is necessary to qualify them. Furthermore, any person who has served satisfactorily for a period of not less than three years in full time service or for a period of not less than 4 years in part time service in such of the armed forces of the Federation as may be prescribed by the Government, is eligible for a certificate of naturalisation.

The supreme head and the executive authority of the Federation is His Majesty the Yang di-Pertuan Agong (the Paramount Ruler) who is

elected by the Conference of Rulers. He is also the supreme head of the armed forces of the Federation of Malaya. His term of office is five years and is not likely to be elected on the expiry of his term. Under the constitution every ruler is qualified to become the Head of the State. The method of election is as follows: The office of the Paramount Ruler shall be offered to the senior most ruler, seniority being determined by the date of accession to the throne. If he does not accept the office, it will be offered to the ruler who is next on the list and so on until a ruler accepts. But the appointment is not made unless at least five out of nine members of the Conference have voted in favour of it.

I have mentioned cursorily the Conference of Rulers. This Conference consists of the Rulers of the 9 Malay States and the Governors of the two States of Penang and Malacca. The Conference exercises the following functions:

1. Electing the Paramount Ruler.
2. Agreeing or disagreeing to the extension of Religious Acts, observances or ceremonies to the Federation as a whole.
3. Consenting, or withholding consent, to any law and making or giving advice on any appointment, which under the Federal constitution, requires the consent of the Conference, or to be made by or after consultation with the Conference.
4. The Conference may also deliberate on questions of national policy (e.g. changes in immigration policy) and any other matter that it thinks fit.

The Conference shall be consulted before any change in policy affecting the administration is contemplated.

For purposes of proceedings relating to the election or removal of a Paramount Ruler or relating solely to the privileges, position, honours and dignities of Their Highnesses or to religious acts, observances or ceremonies, the Governors of Malacca and Penang shall not be members of the Conference of Rulers.

I now come to the legislative authority of the Federation. This is vested in a Parliament which consists of the Paramount Ruler and the two Houses of Parliament, respectively known as the Senate and the House of Representatives. The Senate shall consist of elected and appointed members as follows:

- (a) Two members elected from each State: and

- (b) 16 members appointed by the Paramount Ruler. Members to be so appointed shall be persons who in the opinion of the Paramount Ruler have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities, or social service or are representatives of racial minorities or are capable of representing the interests of the aborigines.

The term of office of a member of the Senate is 6 years and shall not be affected by the dissolution of Parliament.

The House of Representatives shall consist of 100 members.

For both Houses membership is limited to citizens resident in the Federation.

I have so far dwelt on the set-up at the Federation level. On the State level, each State has its own constitution with His Highness the Ruler of the State (in the case of Penang and Malacca, the Governor) being at the head of the Government. The Ruler or the Governor, as the case may be, governs the State with the advice of his Executive Council. The body responsible for legislation at State level is what is known as the Legislative Assembly. Under the Federal Constitution, certain matters are listed in respect of which the State has the power to legislate. Broadly speaking, these matters pertain to Muslim law, local government and land tenure. On the other hand, the Parliament is empowered to make laws on matters which affect the country as a whole, such as external affairs, defence, internal security, Federation citizenship and naturalisation, finance including currency and savings banks and allied subjects, trade, education, medicine and health.

There is also a provision whereby the Federal Government and the State Government can legislate concurrently. Such matters relate to social welfare, scholarships, protection of wild animals and wild birds, town and country planning, public health, sanitation and prevention of diseases, drainage and irrigation.

About the judiciary, I would like to mention one interesting point. Generally, our judicial system is based on the British system of justice. We have the lower courts and the Supreme or High Court. Appeals from the lower courts are heard by the Supreme Court. Matters originally heard by the Supreme Court may on appeal be referred by the Paramount Ruler to the Privy Council. The Paramount Ruler may make arrangements with H.M. the Queen of Great Britain for reference to the

Judicial Committee of Privy Council of appeals from the Supreme Court of the Federation of Malaya. Subject to this provision, an appeal shall lie from the Supreme Court to the Paramount Ruler in any case in which such appeal is allowed by Federal law and in respect of which provision for reference to the said Judicial Committee is made by or under the enactments regulating the proceedings of the Judicial Committee.

There is one special provision in the constitution, which I must touch upon, and that is with regard to the special position of the Malays. This provides for the reservation of quotas in respect of public services, scholarships and other similar educational or training facilities and the issue of permits. It is specifically provided that, in giving special treatment to the Malays, no one should be deprived of his rights and privileges, permits or licences accruing to him or enjoyed or held by him. This special provision was the subject of heated arguments in the Legislative Council, when the Federal constitution was being debated. It was pointed out during the debate, and the position was accepted by the Council, that the special privilege was not new, but a continuation of what had gone before. The Malays are economically backward. Until recently their attitude has been that so long as they have a roof to live under and sufficient food for their family and are allowed to practise their religion, they are happy and ask for nothing more. The result is that unless special protection is given to them, it will be quite impossible for them to come up to the standard achieved by the Malayan Chinese and Malayan Indians. The Council also recognized that an economically depressed Malay community in a prosperous Malaya will not mean a peaceful Malaya since the depressed Malay will never be able to achieve the desired degree of cooperation with the substantially more prosperous non-Malay communities. It is therefore in the long-term interest of all the peoples of Malaya to support measures which will enable the Malays to improve their economic status.

A few words may now be said about the problems which the new Malaya is facing. The Government's two big "headaches" are communism and communalism. Our trouble with the Communist terrorists started in 1939, when the British, before they retreated from Malaya during the Japanese War, armed certain sections of the people, mainly the Chinese, to fight a guerilla warfare during the occupation of Malaya by the Japanese. After the Japanese surrender in 1945, an offer was made to all the people who bore arms against the Japanese (they were then known as the Malayan People's Anti-Japanese Army) to

surrender their arms on payment of the equivalent of about 450 rupees per head. The members of this force were not satisfied with the offer. When they failed to obtain a larger sum, which they considered was their due, they went underground in 1948. To attract a following, they called themselves Malayan people's Anti-British Army, under the guise of fighting the British to drive them out of Malaya. Now that Malaya has attained independence without their assistance, it is difficult for them to justify their continued resistance against the elected Government of the people. The latest position as regards the terrorists' war is that a few days ago the Prime Minister received a letter from the Communist leader Chin Peng, calling for talks to "obtain a just and fair agreement to end the war." The Prime Minister announced his willingness to send his representative to meet Chin Peng's at a preliminary meeting to ascertain if the Communist leader had accepted the principle of surrender, the proposed meeting being for the sole purpose of discussing arrangements for the surrender. We now have to wait for the outcome of this preliminary talk. For the present the Communist terrorists have only a nuisance value. They are hiding in the jungle most of the time and occasionally come out to molest or cause harm to military personnel when they are able to catch them unawares.

With regard to the second problem viz. communalism, I have already given population figures by race. Malaya is unique in this respect, having half of its population drawn from alien races. It is therefore a matter of great concern to all responsible people to ensure that communalism does not show its ugly head. Until now we have been very fortunate in that the various races have lived in peace and harmony, thanks to the efforts of their respective leaders. It is the fervent prayer of every true Malayan that this happy state of affairs should continue. The prosperity, happiness and well-being of the country depends a great deal on the unity of all races and, to quote from the Prime Minister's talk at one of his Press Conferences, "much work must be done to impress upon them [the people] the true significance of loyalty of Malaya."

A great drive on the part of the Malayan Chinese Association in particular is now being carried on to induce those who are not yet citizens to make the necessary application. In fact if the desire is there, it is only a matter of fulfilling the residence qualification and the qualification of possessing a good character for an alien to become a Federal citizen, the constitution having provided that for a period of one year from the date of independence the qualification of the possession of an elementary knowledge of the Malay language shall be dispensed with.

A few words may be added about the education policy of Malaya. Young boys and girls are taught to look up to Malaya as the object of their loyalty while they are in their class rooms. The new education policy provides in the schools a sound education through a national system, based on a common syllabus. Hitherto, any person, individually or collectively, could run a school in any manner he liked. The text books to be used were not authoritatively prescribed. In fact, it was in many Chinese schools that communism was bred. Happily greater control has now been asserted in respect of school management and text books. This new policy could help to lessen the possibility of children imbibing communism and communalism.

Despite the difficulties to which I have referred, I have every confidence that under the able and wise guidance of our Prime Minister Tunku Abdul Rahman, a great many of the problems will be solved. His sincerity of purpose has been recognized by all sections of the population and this quality has won him a great following. If I may venture to forecast the future I would say that economically the Federation of Malaya need have no fear. Our financial position is sound, despite the drain in fighting the communists. We have tin and rubber, which are greatly sought by world markets. Our timber industry can be expanded, as three-fourths of Malaya is under jungle. With these assets and with the goodwill of all nations, I have every hope that my country will be able to play a not unworthy part in the comity of nations.

6

A Quest for Structural Adjustment: The Malaysian Experience**

MUDRAJAD KUNCORO*

As a country imposing an "open economy" system, every development and change in the international economy will affect, directly or indirectly, the Malaysian economy. In the early 1980s, sharp drops in the oil price and relatively unfavourable changes in the international economy forced Malaysia to carry on some measures, which were popularly called macroeconomic stabilisation and structural adjustment programmes. *World Development Report, 1990* has put Malaysia (and Indonesia) among countries which has managed to handle

-
- * Teaching and Research Staff at the Faculty of Economics, Gadjah Mada University, Yogyakarta. Currently he is pursuing his Master degree in Development Finance at the University of Birmingham, United Kingdom. He used to be the editor of *Equilibrium Magazine* and the executive editor of *Jurnal Ekonomi dan Bisnis Indonesia*.
 - ** The author is grateful to Rustam Abbas (Institut Teknologi Mara, Shah Alam, Malaysia) who has given valuable comments on the earlier version of this paper. In addition, my thank goes to Maxwell J. Fry (Tokai Bank Professor of International Finance, University of Birmingham) and M. Hubbard (School of Public Policy, University of Birmingham).

effectively the stabilisation problems and protecting the poor during structural adjustment.

This article will analyse the economic development in Malaysia. Since the primary economic topic of discussion in the 1980s was structural adjustment, this paper will discuss this issue with special reference to Malaysia. In Malaysia, the period 1984-87 was regarded as a period of adjustment, in which the government sought to shift the economy from an unsustainable growth path to one that is consistent with external constraints. Therefore, it would be interesting to examine why such adjustments had to be taken. This paper will also identify some key elements of the adjustments in the framework of absorption approach to the balance of payments. Finally, the "cost" of adjustments will be examined critically.

BOOM AND BUST

There were, at least, three worldwide crisis in the 1980s, i.e.: crisis in the oil price (and other primary commodities) foreign debt crisis and state crisis.¹ Malaysia, a resource rich country, faced severe effects of those crisis. It was likely to have been an "antyclimax" of what happened in the 1970s. Table 1 indicates that Malaysia had a remarkable performance as other East Asian countries.

TABLE 1
Growth Performance
(Average Annual Growth Rates, in per cent)

Countries/Territory	GNP Per Capita 1960-82	GDP ^a 1970-82	Agri- culture 1970-82	Manu- facturing 1970-82	Merchan- dise Exports 1970-82	Inflation 1970-82
Hongkong	7.0	9.9	na	na	9.4	8.6
Indonesia	4.2	7.7	3.8	13.4	-4.4	19.9
Korea	6.6	8.6	2.9	14.5	20.2	19.3
Malaysia	4.3	7.7	5.1	10.6	3.8	7.2
Philippines	2.8	8.6	4.8	6.6	7.9	12.8
Singapore	7.4	7.7	1.6	9.3	na	5.4
Thailand	4.5	7.1	4.4	9.9	9.1	9.7
Middle Income Countries	3.6 ^a	5.4 ^a	3.0 ^b	6.5 ^b	2.6 ^b	12.8 ^b

Note: na denotes data not available

a Weighted Average b Median

Source: World Development Report 1984 in Hasan (1984)

However, after having a positive trade balance in the 1970s, due to the impressive growth in agriculture and manufacturing products, Malaysia witnessed a deficit in its trade balance and current account in the early 1980s. Graph 1 shows clearly these unfavourable conditions in terms of balance of payments. In addition, Table 2 shows that Malaysia has suffered a sharp deterioration in terms of trade since 1981.² The last stemmed from the collapse in the prices for its major exports.

GRAPH 1
Trade Balance (TB), Current Account (CA), Capital Account
(CAPACC): Malaysia 1970-89

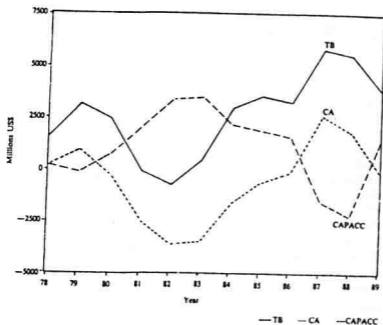


TABLE 2
Some Macroeconomic Indicators: Malaysia 1981-87

	FMP* Target 1981-85	Actual 1981- 85	1981- 84	1985	1986	1987
Terms of Trade Index 1980 = 100	99.5	80.2	80.4	79.2	76.0	79.3
Per Cent of GNP: Current Account Deficit	-0.1	-8.5	-10.2	-2.4	-0.3	8.3
Overall Public Sector Deficit	-6.7	-15.4	-17.6	-5.7	-10.6	-8.4

Note: *FMP is Fourth Malaysia Plan, 1981-85.

Source: World Bank (1989, 4); Asian Development Bank (1990).

TABLE 3
The Development of Some Key Indicators: Malaysia
1978-83, 1984-89
(Average Per Annum)

	1978-83	1984-89
Trade Balance (m. of Ringgit)	1,121.67	4,180.50
Current Account/GDP	-5.18	1.01
Budget Deficit/GDP	-13.16	-7.75
Real Eff. Exchange Rate (1985 = 100)	94.23	85.32
Terms of Trade Index	91.17	80.25*
Real Interest Rates	1.58	4.24
GDP Growth Rates	7.10	5.28
M2/GDP	53.27	67.38
Money Supply Multiplier	1.30	1.29
Investment/GDP	32.69	27.17
Change in GDP/Investment	19.85	16.50
Inflation Rate	5.74	1.77
Unemployment Rate	5.12	7.53

Note: *1984-87

Source: IMF (1991); Asian Development Bank (1990).

Real interest rates were calculated from the following formula: $[(1 + r/100)/(1 + inf/100) - 1] \times 100$, where r is twelve-month time deposit interest rates and inf is the inflation rate. Inflation is the percentage change in the consumer price index (CPI). M2 is M1 (currency plus demand deposit) plus quasi money. Investment is gross capital formation. Money multiplier indicates how much the money supply would increase if the monetary base increased by \$1.

In public finance, the commodity boom and favourable shift in the terms of trade in the 1970s enabled the government to increase its spending. This led to greater budget deficit because total government revenues cannot catch up with the speed of the rise in total expenditure. Table 3 demonstrates the growing budget deficits (from 8 per cent of GDP in 1979 to 19.7 per cent in 1981 and 18 per cent in 1982), mainly due to a surge in public expenditures, especially development expenditures.

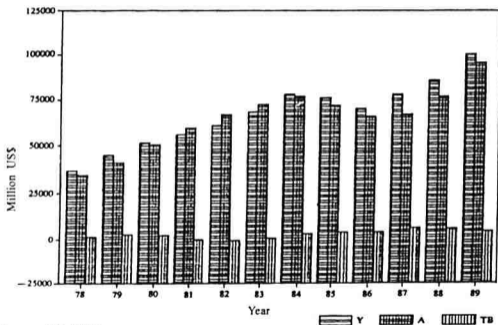
The Malaysian government acted swiftly in response to those internal and external imbalances. The government realised its dependency on oil and other primary commodities was too "volatile". In addition, it has been recognised that the root of the problem stemmed from internal and external factors.³ Therefore, some measures to restructure the economy were urgently needed to be taken to enable the private sector and non-oil export to play a larger role. Starting by devaluing the ringgit, reassessment of the public investment programme, and increasing real interest rates, Malaysia has witnessed a series of policy responses since 1984.

EXPENDITURE-REDUCING AND SWITCHING POLICIES

There are vast literature studies examining structural adjustments in many parts of the world.⁴ In principle, all agreed that structural adjustment differs from stabilisation. The economic philosophy underpinning structural adjustment is long-term supply side management, whereas stabilisation concerns with short-term demand management. Both usually refer to economic responses within national economies. In the Malaysian economy, the main objective is to overcome the twin deficit in the budget and balance of payments. In other words, the objectives are internal and external balance.

In this context, it would be interesting to discuss the structural adjustments in Malaysia by using the absorption approach to the balance of payments. This approach analyses the current account balance by examining the economic factors determining the gap between income and absorption.⁵ The use of the approach is due to the fact that every policy under the heading of "structural adjustment" is, in principle, a combination of "expenditure-reducing" and "expenditure-switching" policy. The former is designed to correcting the deficit by reducing

GRAPH 2
Gross Domestic Product (Y), Domestic Absorption (A), & Trade Balance (TB)



Source : IMF (1991)

spending (absorption), at any given levels of income, while the latter tends to increase domestic income, at any given levels of spending by domestic residents.

Graph 2 demonstrates the development of gross domestic product (Y), domestic absorption (A), and trade balance (T) during 1970-89. In the period of adjustment (1984-87), it seems that domestic absorption is reduced by some expenditure-reducing policies through cutting public expenditure, and hence, fiscal deficits. The other expenditure declining substantially is gross capital formation. This stemmed from the fact that public investment which was still the major component in investment suffered most from the cut-back in public expenditure.

In the supply side, some expenditure switching policies are imposed to encourage the national income (Y). These included devaluation of the ringgit, introducing a variety of policies to restore competitiveness and profitability of tradable sector, depreciating real exchange rates. Some measures have been conducted to reform tariffs by eliminating the protective elements of licensing and streamlining procedures, and to diversify exports.

In short, the specific policy responses under the following categories: (a) sound macroeconomic management based upon prudent monetary and fiscal policy; (b) appropriate exchange rate policy; (c) improved incentives structure by liberalising trade and deregulating industries. In practice, however, conflicting goals inevitably emerged. It leads to the discussion of the cost of adjustment which may occur.

SOME PRELIMINARY RESULTS

The question may arise: how far do the structural adjustment programmes affect the Malaysian economic development? Theoretically, the objectives of every macroeconomic policy are economic growth, inflation, unemployment, and balance of payments. Table 3 summarises some preliminary results of the adjustment measures.

There is strong evidence that the structural adjustment had positive impacts on the balance of payments. As can be seen in Table 3, the trade balance has increased steadily due to the depreciation of real effective exchange rate. At the same time the current account deficit dropped considerably, it turned on to be the surplus during 1984-89. However, this development is still questionable in the medium-term since the terms of trade still deteriorated.

In public finance, it seems that the large budget deficit has been reduced substantially. This is a result of some reforms in public finance, including debt management (re-financing high interest on external debts and issuing commodity bond) and reform of loss-making public enterprises. The concern with public deficit is noteworthy since the fiscal deficits in many cases are the underlying cause of acute and chronic inflation.⁶ This is consistent with the argument that one of the key elements in the structural adjustment is financial stability, which is reflected by fiscal discipline, low inflation rate, prudent monetary and exchange rate policy.⁷

Malaysia has had a substantially lower inflation rate in the period of adjustment than in the year 1978-83, with the expense of lower economic growth and unemployment. The relatively high economic growth in 1978-83, undoubtedly, stemmed from the windfall profits of the commodity boom in the late 1970s. This profit enabled the government to impose interest rates below their free market equilibrium levels and to distribute credits by using 'distributionary' criteria,⁸ which is to be consistent to the New Economic Policy Objectives of eradicating ethnic identification by economic activities. However, the adjustment measures tend to decrease economic growth and increase the unemployment rates, at least in the short-term.

Financial indicators point out that Malaysia over the period 1978-89 experienced positive real interest rates due to the abolition of the maximum interest rate since 1978. It is indicated that Malaysia during that period is not included as a country experiencing financial repression.⁹ Table 3 shows the greater financial depth (M2/GDP) caused by higher interest rates. This figure is still slightly below Japan, Taiwan, and Singapore which had M2/GDP of 75 per cent or more by 1980. In monetary policy, it is likely that Malaysian authorities have imposed contractionary instruments. As a result, the money supply multiplier declined slightly in the adjustment period.

During the era of adjustment, the cutting of public expenditure particularly capital expenditure seems to have discouraged the quantity of investment. The decrease in the quantity of investment (indicated by the ratio of investment) (indicated by the ratio of investment/GDP from 32.68 per cent to 28.7 per cent) is followed by worsening in the quality of investment. The table shows a substantial decline in the change of GDP/investment (IORC), as the indicator of the quality of investment, during 1968-88. One might argue that the increase in real deposit rates of

interests in Malaysia deters economic growth, the quantity and quality of investment. Several factors might have caused the decline in the quality of investment in Malaysia. The first is the existence of widespread rent-seeking activities. Malaysia, as other Southeast Asian countries, today has a large number of rent-seekers,¹⁰ which was partly due to selective credit policy. The second factor is probably due to the massive foreign indebtedness. The capital productivity of the projects financed by foreign aid is likely to be very low because of a long gestation and pay-off period, so that the IORC decreased.

COST OF ADJUSTMENTS

Killick (1990) asserted there are at least three categories of adjustment costs: (1) absorption costs; (2) frictional costs; (3) distributional costs. Absorption costs in the Malaysian economy have been explained by the lower economic growth with the reduction on the quantity of investment. Frictional costs are associated with the shifts of resources from declining to expanding sector. When we consider the structural transformation, as shown by Table 4, it is obvious that the declining share of agriculture to GDP has been replaced by the increasing role of industry, especially manufacturing sector. One may argue that the adjustment measures have accelerated the process of structural transformation in Malaysia.

TABLE 4
Share of GDP (%)

<i>Sector</i>	<i>1970</i>	<i>1975</i>	<i>1980-83</i>	<i>1984-87</i>
Agriculture	30.7	27.6	22.3	21.0
Industry	32.7	32.0	35.4	37.6
<i>of which manufacturing</i>	13.9	16.9	19.4	20.8
Services, etc	36.5	40.4	42.3	41.3

Source: World Bank (1989, 142).

The distributional costs are closely associated with a change in poverty and inequality. Malaysia is a multi-racial society with approximately 60 per cent of the population Malays and other indigenous groups, 31 per cent Chinese, and the remainder largely Indians. Therefore, distribution of income between ethnic groups has become one of the main objectives in Malaysian development.¹¹ The New Economic Policy (NEP), introduced in 1971, has been adopted to eradicate poverty,

restructure society, and especially to reduce the racial imbalances in income and ownership of assets. The data on poverty and mean income shows that the adjustment has caused household income among the ethnic group to decline slightly over the period (see Table 5). Nevertheless the incidence of poverty in Peninsular Malaysia fell from 18.4 per cent to 17.3 per cent due to the decline in rural poverty. The impressive export performance has brought a positive effect for rubber smallholders, coconut small-holders, and estate workers. Urban society seems the most suffering group during the adjustment era, as indicated by the declining mean income and slightly rising poverty incidence. The last might be related with the increase in unemployment rate from 5.8 per cent in 1984 to 8.2 per cent in 1987.

TABLE 5
Poverty and Mean Incomes in Malaysia by Race, Region and Target Group: 1984 and 1987

Group or Sector	1984		1987	
	Poverty Incidence	Mean Income (M\$)	Poverty Incidence	Mean Income (M\$)
Malay	0.258	616	0.238	614
Chinese	0.078	1,086	0.071	1,012
Indian	0.101	791	0.097	772
Other	0.220	1,775	0.243	2,043
Urban	0.082	1,541	0.083	1,476
Rural	0.247	824	0.224	853
Sector:				
Rubber Small-holders	0.417	520	0.400	535
Paddy Farmers	0.577	406	0.502	462
Coconut Small-holders	0.462	514	0.392	492
Fishermen	0.261	672	0.245	633
Estate Workers	0.196	632	0.150	670
Peninsular Malaysia	0.184	1,095	0.173	1,074

Source: Economic Planning Unit (1989)

The Malaysian social indicators, as exhibited by Table 6, are considerably better or at least the same as other upper middle income countries, although all are still below that of the industrial countries. The Physical Quality Life Index (PQLI) — a composite index of life expectancy at age one, infant mortality, and literacy — as a better indicator of the quality of life than GNP per capita,¹² is also far better than other countries in the upper middle income category.

TABLE 6
Social Indicator: Malaysia

	1965	1975	1987	Upper Middle Income	Industrial Countries
Life Expect. at Birth	58	64	69	67	76
Crude Birth Rate	40	32	29	27	13
Crude Death Rate	12	9	6	8	8
Total Fertility Rate	6.3	4.6	3.5	3.5	1.6
Infant Mortality Rate	55	37	35	43	11
Child Death Rate	5	2	2	5	0
<i>Memo Items:</i>					
GNP Per Capita (current US\$)	320	820	1,810	2,510	14,580
PQLI*	na	na	81	75	95

Note: *The available data only provide the data in 1985.

Source: World Bank (1988b), Todaro (1989, Appendix 2.1).

CONCLUDING REMARKS

Structural adjustment has become a major concern of the Malaysian government in the 1980s. The main factors pushing the government to undertake the adjustments are twin deficit in the balance of payments and public budget. In simple terms, structural adjustment is really about 'putting the economic house in order'.

This paper has analysed the macroeconomic management in Malaysia by using the framework of the absorption approach to the balance of payments. It has found that expenditure-reducing and switching policies have been combined to overcome the twin deficits. Some preliminary records show the macro-economic indicators are not in an unfavourable situation. In other words, Malaysia has coped well with the external and internal imbalances. However, this should be sustained in the medium and long-term dimension.

In practice, however, conflicting goals inevitably emerged. It must be admitted that there is 'trade-off' between reducing the current account deficit, fiscal deficit, inflation and increasing economic growth and decreasing unemployment. This leads to the discussion of the cost of adjustments which may occur. The evidence shows that Malaysia has succeeded relatively well in terms of redistribution with growth. It is quite exceptional that structural adjustment which emphasises on

productivity and growth also brings a favourable impact on the poverty and other social indicators.

NOTES AND REFERENCES

1. Further discussion see for example Kuncoro (1992), Hettne (1991, Chap. 1); and Drucker (1990, Chap. 6).
2. From 1977 to 1980, Malaysia enjoyed rising prices for palm oil, rubber, timber, and petroleum which improved the terms of trade by about 13 per cent and nearly doubled export receipts.
3. Demery and Demery (1991), for example, in their survey on Malaysia, identified there are three factors: (1) the OECD recession and the associated deterioration in the country's terms of trade; (2) an expansionary fiscal policy, which in turn caused a debt-induced interest rate shock; and (3) an appreciation in the nominal and real exchange rates.
4. See for example Chambell and Loxley (1989); Killick (1985, 1990); Fry (1991); Todaro (1989); Mosley (1990).
5. There are at least three approaches to every analysis of balance of payments: (1) absorption approach, (2) elasticity approach; and (3) monetary approach. The elaboration of those approaches see Rivera-Batiz and Rivera-Batiz (1989, Chaps. 5 and 14), also De Grauw (1983).
6. Further explanation see Fry (1991a).
7. See Fry (1991b).
8. Fry (1989, 380) explained that Malaysia has required its financial institution (about half of which are owned by the government) to allocate a minimum percentage of their new loans to the *bumiputra* (indigenous) community, who lagged behind in economic activities.
9. One of the major indicator of a repressed economy is a widespread prevalence of negative real interest rates. Further discussion see Fry (1989, Chap. 1), Meier (1989: 212).
10. Kuntio (1988, Chap. 4) has described briefly some different kinds of rent-seekers in Southeast Asia: (1) royal capitalist; (2) presidential families; (3) crony capitalists; (4) bureaucratic capitalists; (5) politicians-turned-capitalists; (6) capitalists-turned-politicians; (7) other government-connected capitalists.
11. Hettne (1991, 189-94) asserted that 'ethno-development', development process appropriate for particular ethnic group, is a new paradigm in the development theory. It is based on the fact that ethnic conflicts are worldwide, they are endemic in Africa but have been particularly intense in Southeast Asia during 1980s.
12. Further discussion see Todaro (1991, 109-12).

7

Turbulences in Sabah and Sarawak and Its Implications for Indonesia**

STEPANUS JUWENG*

"... the colonial status of Sabah and Sarawak would not change through Malaysia... the only thing that would change is the transfer of the Colonial office from London to Kuala Lumpur ..."

(As quoted by Dr. Jeffrey Kitingan, Chairman of Sabah Foundation and Executive Director, the Institute for Development Studies of Sabah in his press statement in Kota Kinabalu, March 4, 1993).

Although Sabah and Sarawak have been independent and become parts of Malaysia for more than twenty-five years, the relationship between the federal and state governments has been coloured by various turbulences. This situation has at least two implications. *First*, in the

* Executive Secretary of *Yayasan Karya Sosial Pancur Kasih*, Pontianak, Research Staff of "Institute of Dayakologi Research and Development (IDRD)," Pontianak; and member of the Asia Indigenous People Pact (AIPP), CCA-URM, Hong Kong. He graduated from the Department of Art and Language Education, Faculty of Education, University of Tanjungpura, Pontianak (1989).

** This article is translated from the original version in Indonesia, titled, "*Gejolak di Sabah and Sarawak, Serta Implikasinya Terhadap Indonesia*," which appeared in *Analisis CSIS XX* (November-December, 1991): 562-76.

internal context of Malaysia, both the stability and instability of the region of Sabah and Sarawak will influence the unity of the Federation of Malaysia. *Second*, Sabah and Sarawak are the centre points of the four ASEAN members, namely, Malaysia, Brunei Darussalam, the Philippines, and Indonesia. It means that the stability of this region will also become a decisive factor in Southeast Asia.

Finally, in 1963 together with Singapore and the Federation of Malay Peninsula, both Sabah and Sarawak with their own respective governments, supported the formation of the Federation of Malaysia based on the recommendation of Cobbold Commission under the conditions that "Malaysia should be regarded by all concerned as an association of partners, combining in the common interest to create a new nation but retaining their own individualities.." (Luping, 1968).

THE CURRENT SITUATION OF SABAH AND SARAWAK

It has been more than twenty-five years since the Malaysia Day, but the national integrity of Sabah, Sarawak, and the Malay Peninsula still becomes one of the main challenges that the Federation of Malaysia has to face. The following part will describe the political, economic, and socio-cultural situation of Sabah and Sarawak.

Political Situation

The political, social, and cultural conditions in Sabah-Sarawak is different from the one in the Malay Peninsula. From the view-point of ethnic-composition, two dominant groups in the peninsula are: the Malay (indigenous) and the Chinese (non-indigenous). Islam is the religion of the indigenous group, the religion of the country. These people, constitutionally possess several special rights — Malay Paramouncy — which the non-indigenous do not have. Since the Malays are Moslems, being indigenous is identical to being Malay and Moslem. In Sabah and Sarawak there are three dominant groups, namely, non-Moslem indigenous group which constitutes the majority, the non-indigenous group, and the Moslem indigenous, the minority group.

The upheaval in Sabah and Sarawak is the implication of the failure of Kuala Lumpur in overcoming the differences between Sabah-Sarawak on one hand, and Malay Peninsula, on the other. The most striking factor of the upheaval is the federal imposition of the Malaysian concept on Sabah and Sarawak: "the superiority of the Malay group, the Malay

language, and Islam as the national religion (*ketuanan puak Melayu, bahasa Melayu, dan agama Islam sebagai agama negara*). (Leigh, 1974; Wariya, 1988).

The present conflict started when *Parti Bersatu Sabah* (PBS) led by Datuk Joseph Pairin Kitingan won twenty-five of forty-eight seats in the State Legislative Assembly (*Dewan Undangan Negeri* or DUN), in the 1985 General Election. United Sabah National Organisation (USNO) under the leadership of Tun Mustapha Datuk Harun won sixteen seats, BERJAYA (*Bersatu Rakyat Jelata Sabah*), the ruling party led by Datuk Harris Salleh, which had previously gained forty-four seats in DUN, only got six seats, and *Pasok Momogun* (United National *Pasok Momogun* Organisation, a party formed by the indigenous people of the interior of Sabah in 1962), got one seat. *Pasok Momogun* then merged with PBS so that PBS finally had twenty-six seats. Tun Mustapha, supported by Harris Salleh, forced *Yang di-Pertua Negeri* (Head of State) Sabah to inaugurate him as the *Ketua Menteri* (Chief Minister). However, eleven hours afterwards, based on what the acting Prime Minister Datuk Musa Hitam had suggested, Joseph Pairin Kitingan was inaugurated as the *Ketua Menteri Sabah* (Chief Minister of Sabah).

Mustapha brought the case to trial and mobilised his supporters to stage rallies in several cities. The provocation caused bomb explosions in Kota Kinibalu (then Jesselton) and Sandakan. He expected that the Federal Government would declare martial law in Sabah, so as to enable the Malaysian Prime Minister to take over control over the state. If it had happened, Harris or Mustapha would have easily regained the top-power position.

To ease the tension, Prime Minister Mahathir proposed the formation of a coalition consisting of PBS, USNO, and BERJAYA. Meanwhile the appellate court of Kota Kinibalu annulled the inauguration of Mustapha, and legally Pairin is the Chief Minister of Sabah. Pairin rejected Mahathir's proposal. Pairin contended that to solve the problem in Sabah, parties should turn to the people to get their new mandate. Pairin, then, dissolved DUN and decided that May 5-6, 1986 be the election days. The result of the election showed that PBS won thirty-four of the forty-eight seats in DUN, USNO got twelve seats, while BERJAYA and Sabah Chinese Consolidated Party (SCCP) gained one seat respectively. The latter then joined PBS.

The Federal Government considered the strong legitimacy of Kitingan's power as a deviation of the political scenario and norms of

Malaysia. Pairin is a Catholic, and PBS is a party which is not a member of *Barisan Nasional* (BN). It will certainly hinder the process of malaynisation in Sabah. Mahathir himself has made concerted efforts to avoid this condition. In his campaign in 1985, he promised to people in Sabah that he would "sink and swim with Harris Salleh and Berjaya."

Viewed from another angle, the victory of PBS reflected the political desires of Sabah people, who did not want to be dictated by Kuala Lumpur continuously either directly or indirectly through their proxies. As noted by Rafaelle (1986), Larson (1976), and Luping (1988), the desire and political role of the Federal Government underline the control of USNO and BERJAYA over Sabah. Consequently, the two previous governments has to comply with the wishes of the Federal Government. During their respective reins Tun Mustapha changed some parts of the constitution of Sabah concerning the Islamic religion, Malaysian language and education to accommodate the Federal Constitution, while Harris Salleh gave Labuan Island to Kuala Lumpur and its oil exploitation to Petronas. Sabah only received royalty of 5 per cent. Furthermore, the Federal Government was also given full control over the immigration of Sabah.

People of Sabah supported PBS because PBS openly launched central issues, concerning the restitution of rights to Sabah as stated in "The Twenty Points" (TTP). The document contains the special rights of the people and state of Sabah which are, according to the "Agreement of the Federation of Malaysia" (Malaysia Agreement), to be protected by the constitution of the Federation of Malaysia. This is the last concession given by the leaders of Sabah before the formation of the Federation of Malaysia. Indeed, TTP is considered as the "Magna Charta" or "Constitutional Safeguards" of the independence of Sabah in the Federation of Malaysia.

On January 3, 1987, Dr. Jeffrey G. Kitingan, Chairman of Sabah Foundation and Executive Director of the Institute for Development Studies (IDS) — a research institute that becomes the think-tank of PBS — officially reiterated the claims of Sabah to the Federal Government. Jeffrey Kitingan also complained that the deviation from TTP caused by the Federal Government were sources of the dissatisfaction of people in Sabah.

The Federal Government was unwilling to compromise on the situation. Prime Minister Mahathir, according to Jeffrey G. Kitingan, even said: "Jeffrey, these state rights and the twenty points, the kampong

people do not know about them, why should we tell him? Special Branch (special intelligence) reports say that you and IDS are responsible for informing the people" He also added: "Besides, giving the royalty of 5 per cent shows that the Federal Government is already generous to Sabah and Sarawak." (*Sabah Time*, 4 March 1990).

The Sabah-Federal conflict exacerbated due to the political manoeuvres of the opposition in Sabah which accused that the PBS government was anti-Islam, and propagated Christianity, although the government gave the MUIS (Moslem Leaders Assembly of Sabah) financial support amounting to M\$ 18 million.

In January 1990, Dr. Jeffrey G. Kitingan was accused of being involved in more than thirty corruption practices. Approaching the state election, in July 1990, four community leaders of Sabah were arrested without legal processes under the Internal Security Act (ISA). They were accused of trying to bring Sabah out of the Federation of Malaysia. Several politic observers thought that the incidents signalled that the people of Sabah should stop supporting Sabah.

The pressures of the Federal Government even made PBS more vocal in claiming for the rights of the people and state of Sabah. In the campaign for the federal state election in July 1990, PBS stated that they were going to review the relationship with the Federal Government based on TTP. Besides, Pairin also promised to fight in the Federal Parliament to abolish ISA, to have their own radio and television stations, and to establish the University of Sabah. Pairin would also ask the Federal Government to increase the oil royalty up to 50 per cent, to restore Labuan Island, and to give Sabah the authority to control its own immigration.

In the 1990 General Election, PBS won thirty-six seats, while USNO only got twelve seats. Looking at the result of the election, Kuala Lumpur should have noticed the indication that the people of Sabah expected an approach which was different from the one they had experienced for more a quarter of a century, or since the formation of the Federation of Malaysia. On the other hand, some federal officials have even accused PBS of instigating the people of Sabah against the Federal Government.

In turn, five days before the federal election in October 1990, Pairin Kitingan controversially decided to leave *Barisan Nasional* (BN) and joined the opposition. Mahathir described that as a stab in the back for BN. Vice Chairman of UMNO, Gafhar Baba, campaigned in Sabah to

gain support for USNO, which is the component of BN. However, as predicted, PBS won fourteen seats in the parliament.

After the election, leaders of USNO urged Kuala Lumpur to teach PBS a lesson. Finance Minister Datuk Paduka Zaim Zainuddin said that he was going to review the budget and federal subsidy to Sabah. According to the statistical data the federal grant to Sabah in 1990 amounted to M\$ 303.7 million, while in 1991 it was only M\$ 170.9.

The Federal Government then dismissed Pairing Kitingan from the post of Head of *Jawatan Kuasa Keslamatan Negeri* (National Security Bureau) of which the members comprise the Police Inspector, Immigration Head, Arm Forces Commander, Head of *Radio Television Malaysia* (RTM), and State Secretary. Kuala Lumpur soon created a new position, i.e. Federal Secretary. Kitingan was also dismissed from his position as the Head of Agency for Coordinating National Development (*Badan Koordinasi Pembangunan Negeri*). The agency, of which the members were the Minister and Vice Minister as well as Heads of Federal Agencies in Sabah coordinated the planning, implementation, and evaluation of federal projects with state ones. Then, as the substitute, the Branch Office of Federation Development of Sabah was established. Referring to the formation, Kitingan said: "Basically, we welcome all of the endeavours, eventhough the formation has some political motives."

In January 1991, Dr. Maximus Ongkili, Vice-Chairman of IDS, and Kitingan's Press Secretary, was arrested based on ISA. He was accused of having the intention to bring Sabah out of the federation. Two days later, Kitingan was also arrested on charges of corruption by winning the tender for the construction of buildings and roads and by giving concession to the companies, of which the share-holders were related to him, from 1985 to 1987.

Gafhar Baba said, in his campaign supporting the UMNO candidate for Usukan by election — due to the resignation of Tun Mustapha from DUN to join UMNO that UMNO had come to Sabah in order to teach PBS a lesson, which was anti-Islam, racist, and anti-Federal Government. Tun Mustapha (UMNO) won the small general election on May 11, 1991. However, it did not picture the real perception of Sabah people towards UMNO, because the constituency of Usukan had been Tun Mustapha's traditional political basis since he was in USNO.

There are forty-eight constituencies in Sabah. Kadazan ethnic group account for 38 per cent of the local population. The majority live in twenty-two constituencies, which one politically called Kadazan

Majority Constituency (KMC). The Chinese ethnic group, which account for 27 per cent, mainly live in eight Chinese Majority Constituencies (CMC), and the Moslem group which account for 25 per cent, mostly live in eighteen Malay-Moslem Majority Constituencies (MMC). The rest (11 per cent) are various groups spread all over the country.

If PBS is the party of Christian-Kadazan, the normal distribution of the seats would be twenty-two seats for PBS, eighteen for USNO, and eight for Chinese. The fact showed that PBS got thirty-six seats. It meant that PBS was supported by all KMC (twenty-two seats), all CMC (eight seats), and six out of eighteen seats of MMC. This meant that PBS was a multi-racial party. Meanwhile, the board of nine ministers consisted of five Kadazan, two Chinese, and two Moslems. The three Vice-Chief Ministers were each from the Kadazan, Chinese, and Moslem groups. The Vice-Ministers consisted of five Moslems, four Christian-Kadazans, and three Chinese.

These figures proved that all dominant groups in Sabah support PBS, that it is not easy for Kuala Lumpur to weaken the party. The most recent development was the arrest of Dr. Jeffrey G. Kitingan based on ISA. He, who was the symbol of the Sabah resistance against the Federal Government, was accused of jeopardizing the country. The Youth Organisation of UMNO accused him of scheming with the Asia-Pacific Zionist movement, which had a basis in Australia, for the overthrow of the Mahathir government. This Zionist movement, according to the Youth Organisation of UMNO, wanted to overthrow Mahathir, because Malaysia was on the side of Irak during the Persian Gulf War. The allegation was actually a counter-attack against Australian NGOs and Press, who charged Mahathir with the destruction of the tropical forest in Sabah and Sarawak, and the violation of human rights of native people in the Borneon states.

Analysts looked at the success of PBS in Sabah as an inspiration for non-Moslem native group in Sarawak to reinstate the power that they had for seven years from 1963 to 1970. The composition of the population in Sarawak was 44 per cent Dayak, 30 per cent Chinese, 25 per cent Malay-Melanau, and 1 per cent the others. Theoretically, it would not be difficult for the Dayak Ethnic group to control the government of the state.

However, traditionally, Sarawak Dayak communities are divided into several parties. The Bidayuh group are generally supporters of Sarawak National Party (SNAP) and Sarawak United People's Party (SUPP). Part

of the Iban group supported SNAP and *Pesaka* Party which later fused with *Bumiputera* Party to form *Pesaka Bumiputera* Party.

The first Chief Minister of Sarawak, Stephen Kalong Ningkan was the founder and president of SNAP. After the 1966 political crisis in Sarawak, the leadership went to Datuk Umar James Wong. Since then the Dayak leaders of SNAP has never become the president of the party.

Tumenggong Tun Jugah, Iban Traditional Chief from Saribas, was the leader of *Pesaka*. After the party and *Bumiputera* Party led by Abdul Rehman Ya'akub from Melanau-Moslem had been fused, Jugah resigned from the political arena. Like the Dayak leaders in SNA, leaders of the *Pesaka* Wing in PBS never assumed the leadership/position of the party. Therefore, it was difficult for Sarawak Dayaks to gain the top position in the political arena of the state.

Dayaks become the minority in majority. Statistically it is a big group, but it never controls political, economic, and socio-cultural affairs. This condition gave rise to dissatisfaction among some Dayak leaders in SNAP. After their failure to take over the leadership of the party from Datuk Umar James Wong in the conference of the party in 1983, Datuk Leo Moggie Anak Irok (Vice-President of SNAP) and Datuk Daniel Tayem Anak Miri established a new party called *Party Bangsa Dayak Serawak* (PBDS or 'Serawak Dayak National Party'). Thereafter, Chief-Minister Datuk Taib Mahmud accepted PBDS in the coalition of BN of the state. In the 1993 election, PBDS gained five out of thirteen seats from SNAP (Jayum, 1988).

In the early 1987 the Sarawak Dayak community, who lived in hinterlands launched protest actions against a logging company. They blockaded thirteen different places for three months. This condition created a political crisis in the state, since most of the concessions were owned by politicians. Under the leadership of Daniel Tajem, Vice Chief Minister, twenty-eight out of forty-eight members of DUN submitted a vote of no confidence to Abdul Taib Mahmud. DUN was dissolved in order to get a new mandate of the people through a general election.

PBDS signed a cooperative agreement with *Partai Rakyat Malaysia Serawak* (Malay Sarawak People's Party of Permas), which was just established by Abdul Rahman Ya'akub former Chief Minister, *Yang di-Pertua Negeri Sarawak*, and Abdul Taib Mahmud's uncle.

PBDS managed to obtain fifteen seats, while Permas only got five seats. Therefore, BN obtained twenty-eight seats: PBS fourteen, SNAP three, and SUPP eleven. PBDS then became the opposition party. Up to

June 1989, eight of PDBS members of DUN crossed to the government side. It was a way to paralyse the party.

Sidi Munan, Executive Secretary of PBDS, said that PBDS would at least obtain twenty-five seats in the 1991 election of Sarawak. Munan held that sixteen of the seats were already in hand, because in the federal election 1990, PBDS had won eight parliamentary constituencies. One Parliamentary Constituency consists of two constituencies of DUN.

Although the prediction was based on reasonable political calculations, PBDS seemed to be too optimistic. A number of NGO activists and lawyers believed that the PBDS leaders were not close enough to the people. An NGO activist in Miri, also said that PBDS was not seriously fighting for the fate of the Dayaks, who were their political basis. Furthermore, the defeat of PBDS was due to their old strategy, namely, "winning the Dayak Traditional Chiefs" (Searle, 1983). Owing to the improved political awareness of the people the formula was not as effective as it used to be.

On the other side, for Dayak people in hinterlands, maintaining lands and forests, the main pillars of their economy, was considered much more urgent than dealing with the political elite's interests in Kuching. They believed that generally politicians would desert the people after they were elected. A similar view was also expressed by an expert in his statement to Broken Hill, as follows: "We need a leader, not a politician. A leader gives power to the people, while a politician takes the power from the people."

The following are some points recorded from the political reality in Sabah and Sarawak:

1. The real concentration of power is in Kuala Lumpur. The interference of the Federal Government in ousting both Stephen Kalong Ningkan and Tawi Sli in Sarawak (1966 and 1970), and Donald Steven in Sabah (1964) proved that. They were replaced by a Moslem Chief Minister who shared common aspirations with the federal leaders;
2. Consecutively, the Dayak's political power has been represented by SNAP, Pesaka, and SUPP; then SNAP, PBB, and SUPP; and finally SNAP, PBB, and PBDS. Disension between these political elites has led to the fragile unity and integrity of the Dayak communities on the basis level;
3. The spirit of unity among the Kadazan ethnic group is very strong due to the strong pressures from the former government of Sabah.

- The government of Sarawak is more tolerant, but at the same time applying the "divide and rule" strategy;
4. PBS is multi-racial, and Kadazan politicians have managed to establish their political machinery. Meanwhile, Dayak politicians in Sarawak failed to obtain top positions of the existing parties. Exclusively forming a Dayak party means leaving the other groups in political and state affairs in a multi-racial country. On the other hand, not all Dayak leaders join the Dayak parties.
 5. The Chinese group occupy the kingmaker position. The controlling power in Sabah depends very much on the support of the group, because Moslem majority Constituency is balanced by non-Moslem *Bumiputera* Majority Constituency.

Then, it is not surprising that in the general election, October 1991, PBDS only won seven of the fifty-six seats. The other factor of the defeat was the ambiguous attitude of Leo Moggie Anak Irok, the President of PBDS, who did not compete in the arena of election. He was a member of the Federal Parliament and concurrently the Minister of Public Works in the Federal Cabinet. If he took part in the general election in Sarawak, he would have to relinquish the two positions. In fact, the ambiguity of PBDS could be seen from its status, namely as an opposition in Sarawak, but a BN member in the federation.

Economic Situation

Sabah and Sarawak are states which are rich in oil and wood. The imbalanced state of the Federal-State royalty share is the source of conflicts on the level of Federal-State relations. Meanwhile, the fact that most of the wealth is in the hands of the ethnic Chinese community, who collaborate with the political elite, also becomes the source of the internal conflict. A social movement in the hinterland against the operation of the logging companies which have obtained logging concessions since 1987 are examples of the conflicts. The movement then became an international affair, after they had been supported by various NGOs all over the world. As a result, sixteen persons were arrested based on ISA, and hundreds of others have been brought to trial. However, it has even strengthened the intensity of the opposing movement and has increased the support of NGOs for the struggle of the communities in the hinterlands.

Eventhough Sabah and Sarawak have made much progress within the last twenty-five years, relatively, they are still lagging behind compared

with the Malay Peninsula. Both states get a royalty of 5 per cent of the oil production which constitutes the main product of the state. On the other hand, the royalty from the timber sector, which has been so far the main source of income is decreasing. It has resulted in the decline of the income of Sabah and Sarawak.

The real total revenue of Sabah went down from M\$ 1,271.1 million (1990) to only M\$ 1,011.8 million (1991). The biggest component drop came from the federal grant sector which decreased from 303.7 *ringgits* to 170.9 *ringgits*. On the other hand, the federal income from Sabah rose from M\$ 1,800 million to M\$ 1,850 million in the same period. Based on the 1990 criterion the total income deriving from Sabah was M\$ 3,072 million. Of the figure, the Federal-State revenue sharing was 58.60: 41.40. If the federal grant was subtracted from the revenue, the equation would become 48.60 : 51.40. It means that the assets of Sabah hoping to the Federal treasury was 48.60 per cent. In this case, the expenses of the Federal Government for Sabah in the same year was not revealed. There were about 20,000 federal employees in Sabah, and 90 per cent of them came from the Malay Peninsula and it has also caused social jealousy on the part of Sabah.

The Malaysia Agreement stated that 40 per cent of the federal income deriving from Sabah would be returned to Sabah. In fact, only 16.88 per cent of the income were returned to Sabah in 1990. Meanwhile, the appointment to the federal employees from the peninsula was a violation of the provisions of the agreement on Borneonisation which stipulate that English officials should be replaced by Sabah-born people.

Although the income per capita in Sabah is M\$ 430 higher than that of Sarawak, the poverty rate in Sarawak is lower by 10.6 per cent. In other words, the rate of equitable distribution in Sarawak is much higher than in Sabah.

On the other hand, several NGOs in Sabah stated in the hinterlands there were still a number of elementary schools which had thatched roofs and bamboo walls. Such school buildings do not exist in Sarawak. Hence, Sabah is a rich country but the people are poor. Moreover, the cost of living in Sabah is relatively higher than the cost of living in Sarawak and the Malay Peninsula. For example, water and electricity in Sabah are respectively 30 per cent and 50 per cent higher than in Kuala Lumpur.

Socio-Cultural Situation

Another condition which put pressure on Sabah was the illegal immigrants from Indonesia. According to IDS research findings, in 1988

there were 335,000 immigrants from the Philippines. Seventy thousands of them were Moro refugees, and 167,936 persons were labourers in the formal and non-formal sectors. However, only 50,000 people had work permits, while the rest were illegal workers or immigrants. In the same year, immigrants from Indonesia numbered 145,000 persons (now about 150,000) working in formal as well non-formal sectors, too. A total of 102,680 of the group had obtained work permits.

The immigrants took away the available job opportunities and other public services from the people. In 1987, the ratio of the foreign workers and the local ones was 227,936 to 143,038. In the same year, the rate of unemployment in Sabah reached 11.04 per cent. Meanwhile, 32.1 per cent of the hospitalised patients were either from the Philippines or Indonesia.

In the sector of education 28,527 of the 216,551 students were children of the immigrants. This figure was twice as big as that of 1980. In the same period the number of local children studying in elementary schools only increased by 5.1 per cent.

The local people were worried, because if the immigrants keep coming and the birth rate remains high, in the year of 2008, the total population of Sabah will amount to 2,863,669 and 51.7 per cent will be immigrants or their offspring. It is strange that in the census done by the federal government in 1986 the immigrants were classified as the indigenous group. Approximately 85 per cent of the immigrants were Moslems, and the rest belonged to various religions.

Unlike in Sabah, illegal immigrants did not become a serious problem in Sarawak. In Kuching there were no street vendors, hawkers, shoe-polishers and beggars. In Kota Kinibalu, they were part of the city life.

FEDERAL-STATES RELATIONS: HISTORY AND ITS IMPLICATIONS

The conflict between Sabah-Sarawak and the Peninsula has been going on since the proposal for the formation of Federation of Malaysia, was put forward. The following part will chronologically present events, which have sparked off the conflict.

The Proposal of Malaysia

During the British colonisation, Malaya, Singapore, Sabah, Brunei, and Sarawak had their own governments. On August 31, 1957 the

Federation of Malaya was granted their independence by Great Britain. Tunku Abdul Rahman, Chairman of United Malay National Organization (UMNO), and President of Malayan Alliance — UMNO, Malayan Chinese Association (MCA), and Malayan Indian Congress (MIC) — became the Prime Minister of the Federation. Meanwhile, Singapore had limited autonomy in 1959 under David Marshall. Lee Kuan Yew of the People's Action Party (PAP) managed to win in the first election of Singapore, and was appointed Chief Minister. Due to the communists' pressure in Singapore, Lee thought that the future of Singapore would be guaranteed only if it was united with the Federation of Malaya.

Tunku did not agree with the union because of two reasons. *First*, the population of Singapore were mostly Chinese with better education and economic levels than the Malays. *Second*, the total number of the Chinese people in Malaya and Singapore exceeded the number of Malays. Hence, it would threaten the future of Malay Paramountcy. To that end, Tunku proposed to the British that Sabah, Brunei, and Sarawak be included in the proposal of the new federation. The proposal was accepted by Britain and in a press conference in Singapore on May 27, 1961. Tunku Abdul Rahman announced the plan of the formation of the Federation of Malaysia.

Luping (1988) stated that Malaya and Singapore applauded Tunku's announcement, but Sabah, Brunei, and Sarawak responded to it hesitantly. Donald Stephen, *Huguan Siou* (Supreme Chief) of Kadazan; Azhari, Chairman of *Parti Rakyat Brunei* (Brunei People's Party); and Ong Kee Hui, Chairman of Sarawak United People's Party, formed the United Front to oppose the Federation of Malaysia. The idea of the federation did not comply with the ideals of the people and leaders in the region of Borneo. They wanted to have their own independence. They thought that the formation of the Federation of Borneon States seemed more reasonable than joining the Federation of Malaysia. President Soekarno from Indonesia and President Diosdado Macapagal from the Philippines opposed this idea, although they had different political motives.

Owing to tactful diplomacy, after the Commonwealth Parliamentary Association Conference in Singapore July 21, 1961, Stephen, Head of the Borneo Delegations and Head of Malaysia Solidarity Consultative Committee, changed his mind, and mitigated his stand toward the idea of the formation of the federation of Malaysia.

A number of historians recorded the Stephen's mitigated stand was due to the influence of Lee Kuan Yew, on the one hand, and the lack of

diplomatic experience of the leader of Sabah, on the other. Then Tunku Abdul Rahman invited Stephen, and welcomed him like a king. After his Kuala Lumpur visit, Stephen announced openly that he supported the formation of the federation of Malaysia. Larson (1976) stated that in the meeting Tunku Abdul Rahman made a number of commitments to Stephen. He guaranteed the rights of Sabah and Sarawak in the federation. Tunku also depicted the picture that if Sabah and Sarawak were independent, the ethnic Chinese would dominate political, economic, and socio-cultural affairs. However, if the two states were under the Federation of Malaysia, the constitution of Malaysia would grant them special position of indigenous races.

On January 16, 1962, Lord Cobbold was appointed to lead the Commission of Enquiry to monitor people's reaction in Sabah and Sarawak towards Malaysia's plan. On August 1, 1961, the commission announced their findings. In principle, joining the Federation of Malaysia was the best for the people of Sabah and Sarawak, provided that their special rights and interest were protected.

The Inter-Governmental Committee (IGC) led by Lord Landsdowne and Tun Abdul Razak was formed in order to realise the plan. Delegates from Singapore, Sabah, and Sarawak were members of the committee. IGC was in charge of drawing up the Constitution of the Federation on Malaysia. Five political parties in Sabah submitted a memorandum called The Twenty Points (TTP) which comprised twenty points concerning the special rights and interests of the people of Sabah which should be protected constitutionally by the Federation of Malaysia. Leaders of Sarawak also submitted a similar memorandum consisting of eighteen points. Based on the memoranda, the committee made thirty-seven recommendations for Sabah and Sarawak to jointly form with Singapore and the Federation of Malaya, the Federation of Malaysia. The Agreement of the Federation of Malaysia, an official document about the formation of the Federation of Malaysia, signed by the governments of the Federation of Malaya, Singapore, Sabah, Sarawak, and Britain, was soon realised. On August 31, 1963 the Federation of Malaysia was proclaimed.

Although separately TTP does not have a formal legal status, it is the *Charter of Independence of Sabah* in the Federation of Malaysia. Therefore, people of Sabah consider it as the basis of federal-states relations.

The Independence of Singapore

Tunku Abdul Rahman's policy to separate Singapore from the Federation of Malaysia was a serious violation of the Malaysia Agreement as well as a precedent for Sabah and Sarawak. Since Singapore could separate from Malaysia, why couldn't Sabah and Sarawak? Singapore, Sabah and Sarawak signed the Malaysia Agreement, the official legal basis of the Federation of Malaysia.

Legal experts and political analysts consider the violation of the Malaysia Agreement by the federal leaders a manifestation of the political, economic, and socio-cultural policies of Kuala Lumpur towards Singapore, Sabah, and Sarawak.

If Singapore remained a part of the Federation of Malaysia, the educational level, number of the population, and the economic dynamics of the Chinese community would threaten the superiority of the Malays. On the other hand, notwithstanding the relative substantial number of non-Moslems in Sabah and Sarawak, the Federal Government would be able to control them, because of their low educational and economic level and inadequate political experience of their leaders.

When Singapore was granted its independence on September 9, 1965, Donald Stephen, Federal Minister for Sabah Affairs and Chairman of Sabah Alliance, intended to review the Federation of Malaysia. Since Singapore, one of the signatories of the Malaysia Agreement, was no longer a member of the federation, the agreement had some legal defect, so that a new agreement was needed.

Federal Political Intervention

To dampen Stephen's political manoeuvres, Kuala Lumpur needed a strong person who was pro-federal in Sabah. The choice fell on Tun Datuk Mustapha, being *Yang di-Pertua Negeri* at that time. Kuala Lumpur soon sent Syed Kechick to help Mustapha turn to the political arena. When Mustapha was not fully obedient to Kuala Lumpur, the Federal Government approached Tun Fuad Stephens, who had converted to the Islamic religion, to jointly with Harris Salleh established *Partai BERJAYA*. *Partai BERJAYA* managed to become a dominant party and Stephen was inaugurated as the Chief Minister. He died in a helicopter accident, fifty-five days after his inauguration, and Harris Salleh replaced him as the Chief Minister.

Under Harris Salleh, Federal-Sabah relations peaked. However, on the state level, turbulences continued. Harris' deputy, Joseph Pairin

Kitingan, persistently opposed his policies. Then Kitingan was discharged, though he remained in the political arena as an independent member of DUN. Then he formed PBS and has ruled Sabah since 1985.

In 1966 a political crisis arose in Sarawak, since Kuala Lumpur urged the state to adopt Malay as the official language in Sarawak, and would take over the authority of the state in defence affairs. Consequently, Kuala Lumpur imposed martial law in Sarawak and took over the government of Sarawak from Stephen Kalong ak Ningkan (SNAP). The position went to Tawi ak Sli (*Pesaka*) although the real control of the government was in the hands of his deputy, Taib Abdul Mahmud. Later, *Pesaka* fused with *Bumiputera* and Abdul Rahman Ya'akub assumed the leadership, which was then passed to Abdul Taib Mahmud.

Both Sabah and Sarawak were of the opinion that Kuala Lumpur had meddled too far in the internal political affairs of the two states, especially in overthrowing governments, whose aspirations were not in line with those of Kuala Lumpur. A number of analysts believe that such attempts are being made in Sabah presently. The issue is that the present condition of Sabah is very much different from the condition of Sarawak in the 1970s.

POTENTIAL FACTORS OF THE CONFLICT

Based on the experience to the last twenty-five years, if the Federal Government does not change their approach towards Sabah and Sarawak, the federal-states relations will remain a problem. A number of sensitive factors which may trigger an open conflict are:

1. Malaysia Agreement and the Separation of Singapore

The failure of Kuala Lumpur in abiding by the provisions of Malaysia Agreement will continually create demands from Sabah and Sarawak. The separation of Singapore is also a precedent for both the states to break up with the federation.

2. Issue of Malaysianisation

The coercive measures of the federal Government for Islam, Malay language, and *Ketuaan Puak Melayu* will cause tension, since Sabah and Sarawak will regard it as recolonisation of the states. This matter has some implications for ethnic, religious, racial and inter group relations which are very sensitive in a multi-racial country, such as Malaysia.

3. Federal-State Revenue Sharing

The imbalanced distribution of the royalties of oil product (95 per cent: 5 per cent) between federal states, and the small amount of the financial aid from the Federal Government are considered an exploitation of Sabah and Sarawak by the Peninsula.

4. Equitable Distribution and Social Justice

Wealth concentration in a small number of political elites and conglomerates causes economic imbalances and social injustice. People will feel being suppressed and the situation will generate a spirit of opposition.

5. Excessive Political Domination of Kuala Lumpur

To impose the Federal's political will as a manifestation of its desire to dominate Sabah-Sarawak exceeding the limit of democracy by manipulating authoritative bodies, such as Special Branch, Military, Anti-Corruption Agency, and ISA, may bring about a perception that Sabah and Sarawak are the colonies of the Peninsula. The federal employees who are mostly from the peninsula are also part of the perception.

6. Illegal Immigrants

The immigrants take away job opportunities, and social services of the local people. There were rumours that the federal government deliberately allowed the entry of Moslem immigrants from the Philippines and Indonesia into the states, and that one day they would be naturalised, and would vote in the general election. Further, this process would change the composition of religious, ethnic, racial and inter-group relations and end up in the change of the political power constellation.

A number of analysts predict that the protracted political turbulences in Sabah and Sarawak — if they are not anticipated wisely by both the federal and local government — may trigger an open conflict. A number of extreme analysts even think that the current federal political pressure upon Sabah is almost beyond tolerable limit and open confrontation may start any time. Recently, a member of DUN from PBS has proposed a referendum which enable people of Sabah to decide whether they still want to be a member of the Federation of Malaysia or not.

The Implications for Indonesia and ASEAN

History has shown that internal conflicts in a country will have implications, directly or indirectly, for other countries which share borders with the country.

Some hypotheses show that if there is an open confrontation between Sabah and the Federal government, the non-Moslem indigenous group in Sarawak will most likely be on the side of Sabah.

The non-Moslem indigenous population in Sarawak are united under the ethnic label "Dayak". This will also be the case with the Dayak people in the other parts of Kalimantan. The internal Sinhala-Tamil conflict in Sri Lanka has created a spirit of solidarity among ethnic Tamil people in India, even though there is a sea between the two regions. What would have happened if India and Sri Lanka shared borders as Indonesia and Malaysia?

Another implication for Indonesia as the supporting region of Sabah and Sarawak is the influx of refugees into Indonesia. It will no doubt have political, social, and economic impacts on this region. At the same time, 150,000 to 200,000 Indonesians working there will lose their jobs and the situation will have a direct impact on the socio-economic life of Indonesia, or, at least, on the life of the workers and their families. This scenario also applies to Brunei and the Philippines which directly share borders with Sabah. The protracted federal-Sabah conflict will have implications for the neighbouring ASEAN countries. Hence, every country has an interest in the political stability of Sabah and Sarawak.

Therefore, the government of Malaysia should take a wiser stand in dealing with the factors of potential conflicts in that regions. At the time when globalisation will have affected countries all over the world, the anti-federal movements in this part of the world will undoubtedly influence the way of thinking and political behaviour of the people in other parts of the world, which are in a similar condition.

REFERENCES

- Abadi, Zakry. *Analisis Pilihanraya Umum '90*. Kuala Lumpur: MYZ Sdn. Bhd., 1990.
- Aliran. *ISA Keselamatan Negara*. Aliran Kesedaran Negara (Aliran). P. Pinang: Aliran, 1988.
- Ching, Y. L. *Sarawak: The Plot That Failed, 10 March 1987-17 April 1987*. Singapore: Summer Times, 1987.
- Chung, C. L. *The Constitutional Position of Sabah*.
- Commission of Enquiry. *Report of the Commission of Enquiry, North Borneo and Sarawak*. London: Her Majesty Stationery Office, 1962.
- Crouch, Harold, Hing, L. K. and Ong Michael (eds.), *Malaysian Politics and The 1978 Election*. New York: Oxford University Press, 1980.
- Election in Malaysia, A Handbook of Facts and Figures on The Election, 1955-86*. Kuala Lumpur: NSTP-Research and Information Service, 1990.

- Gomez, E.T., *Money Politics in the Barisan Nasional*, Kuala Lumpur: Forum Publications, 1991.
- Hock, O.Y., *Ethnic Chameleon. Multiracial Politics in Malaysia*, Selangor: Pelanduk Publications, 1991.
- Information Malaysia 1990-91 Yearbook*, Kuala Lumpur: Bertia Harian Publishing Sdn Bhd., 1991.
- Insan, *Logging Against The Native of Sarawak*, Petaling Jaya, Selangor: Insan, 1989.
- Jackson, James C., *Sarawak, Satu Kajian Ilmu Alam Tentang Sebuah Negeri yang Sedang Membangun*, Kuala Lumpur: Dewan Pustaka dan Bahasa, 1968.
- Jayum, J.A., *The Sarawak State Election of 1987: The Dayakism Factor*, Kuala Lumpur: Jawan A Jayum, 1987.
- Johari, Hj., Y.M. and Sidhu, B.S. (eds.), *Urbanisation and Development, Prospects and Policies for Sabah Beyond 1990*. Kota Kinabalu: IDS, 1989.
- Jomo, K.S., *Masyarakat Malaysia. Cabaran Sosial Ekonomi*. Selangor: Insan, 1991.
- Kitingan, J.G., *The Twenty Points: The Basis of Federal-State Relations*: Kota Kinabalu, IDS, 1988.
- , *The Political Economy of Federal-states Relations (The Case for Fair Revenue Sharing)*, Kota Kinabalu: IDS, 1988.
- Kitingan, J.G. and Ongkili, J.M. (eds.), *Sabah, 25 Years Later 1963-88*, Kota-Kinabalu: IDS, 1989.
- Larson, B.R., *The Politics of Federalism*, Singapore: Bruce Ross-Larson, 1976.
- Liegh, M.B., *The Rising Moon. Political Change in Sarawak*. Sidney: Sidney University Press, 1974.
- Lingenfelter, S.G. (ed.), *Social Organization of Sabah Societies*, Kota Kinabalu; Sabah Museum and State Archives, 1990.
- Raffaele, Paul, *Harris Salleh of Sabah*, Hong Kong: Condor Publishing Pty., Co., 1986.
- Sabah Time*, 4 Maret 1990.
- Sahabat Alam Malaysia, *The Battle for Sarawak's Forest*, P. Pinang: Sahabat Alam Malaysia and World's Rainforest Movement, 1989.
- Searle, P., *Politics in Sarawak, 1970-76. The Iban Prospective*, London: Oxford University Press, 1983.
- Talib, Kushairie, *PBS. Keluar Membela Maruah*, Kuala Lumpur: Goldana Corp. Sdn. Bhd., 1991.
- Wariya, Chamil, *UMNO Era Mahathir*, Kuala Lumpur: Fajar Bakti Sdn Bhd., 1988.

8

Regional Development and the Fifth Malaysia Plan (1986-1990)

MORSHIDI SIRAT*

Regional approach to development was officially introduced during the Third Malaysia Plan, 1976-80. How and who first introduced this approach to development in Malaysia is debatable. Nevertheless, World Bank's consultants to the Malaysian Government, especially the Economic Planning Unit of the Prime Minister's Department, were the main proponents of this approach to development and possibly they were the first few planners that could have introduced regional planning strategies, such as the infamous growth poles to the Malaysian Planning Scene.

Before 1976 regional planning concepts and the related strategies were introduced by consultants (such as shankland cox partnership and Hintington Technical Services) to the various Regional Development Authorities created in the late 1960s and early 1970s. But even then not until the introduction of the Third Malaysia Plan that the importance of the regional approach was readily recognised. Regional differential welfare were basically tackled in an *ad-hoc* manner and furthermore the

* Morshidi Sirat is Lecturer (Regional Development Planning), School of Humanities, Science University of Malaysia, Penang.

institutions and machinery of regional planning were still at an infant stage. There was clearly a gap between planning at the national level and planning at the local level. The introduction of the Town and Country Planning Act of 1976 was aimed at narrowing this gap. This Act is essentially based on the Town and Country Planning Act of 1968.¹

Prior to the 1976 Act regional development planning were mainly planning at the state level which is not exactly a regional entity. Unlike the regional concept, states refer to political entities.² Planning on the state basis have serious limitations and these have led to the improper implementation of projects. Monitoring of the effects of projects were also difficult because growth impulses recognise no state political boundaries. Projects, especially development projects on an multi-state basis, can lead to a reduction in overlapping investments and better still the duplication of infrastructural projects³ will be greatly minimised. Once the government recognised the importance of the regional approach there has been no looking back. It seems that the government is of the belief that this is the only approach available to reduce regional inequality and thus achieve national unity. The slogan of the day was national unity through regional development. This is in fact reiterated in the Fifth Malaysia Plan but the manner in which this is to be achieved is less vociferous than the previous national plans. Obviously the government has finally come to term with resource constraints.

ECONOMIC SLOWDOWN AND REGIONAL DEVELOPMENT

The plan states that the country will continue to experience resource constraints and in view of this regional development during the fourth and last segment of the 20 year Outline Perspective Plan (OPP), 1971-90 will reflect resource scarcity. It is untimely that during the last segment of the OPP the government has to put a plug on the various projects that has been identified. This is the last chance for the government to fulfill the spirit and purpose of the New Economic Policy (NEP). But the government has no other alternative. With national reserves at the lowest level regional development will be directed towards the consolidation of efforts to ensure greater efficiency of resource utilisation.⁴

The National Agricultural Policy (NAP) introduced sometime in 1984 and the recent introduction of the Industrial Master Plan (IMP) will be the basis for the government's plans to revitalise the agricultural sector and strengthen the industrial base. At the time when national income is

not that pleasing the government has decided that regional approach based on multi-state⁵ regions, first introduced during the Third Malaysia Plan, 1976-80 is the best regional framework for the nation and this move is timely. The regional approach, with broader spatial units as a basis for planning, enables states which are poor in resources and experience growth constraints to benefit from the overall development efforts undertaken in the region.⁶ But this is not that simple in the case of Malaysia. With states' control over land, forestry, and mineral resources to name a few⁷ choosing sites for the development of resources-based industries will be quite tricky.

With Federal State relations not at the best of terms at times the states need more than just persuasions to contribute to the successful implementation of a project or group of projects which are far beyond their respective boundaries. Existing agencies must be able to re-orientate their respective basis planning and implementation approach to incorporate the broader regional perspective.⁸ In addition these agencies, must be able to command respect and support from the various states that make up a particular region. The Plan is correct in suggesting that the implementation machinery of the country need to be streamlined in order to effectively operationalise this regional approach to development. This means that some agencies have to be done away with and in others the manpower have to be rationalised. This will be difficult for the Off Budget Agencies (OBA) which are used to unlimited financial resources. These agencies are the subject of numerous debates in Parliament because of the nature of their project investments. The economic situation will affect the government's effort to balance out regional imbalances. It is hard to implement regional policies when the economy is stagnating. But, another way of looking at it, is that with resource constraints the government will always be on the look out for better investment. This has not been so in the past.

During the Third and Fourth Malaysia Plans the strategies for region development were bold and the government's tenacity in meeting the objectives of the NEP through regional development is very clear. But the government's commitment for massive projects to accelerate regional development during the Fifth Malaysian Plan seems to have mellowed down. If during the Fourth Malaysia Plan the government was of the opinion that "Much more ... remains to be done ... to accelerate development of the less developed regions through the optimal exploitation of their resource potential and the provision of social

services to bring about a more equitable distribution of socio-economic benefits accruing from a growing economy."⁹

During the Fifth Malaysia Plan the economy will be stagnating and there will be less socio-economic benefits to redistribute. The Mid Term Review (MTR) of the Fourth Malaysia Plan in 1984 was an early warning signal of what is to come in the last segment of the OPP. Eventhough much was invested in the way of regional equality the MTR recognised that only minimal success was achieved towards the objectives of reducing regional imbalance and new strategies of regional development have to be formulated. The regional development strategies such as resource and new land development, *in situ* rural development, industrial dispersal strategy and a deliberate programme of rural urbanisation and creation of new growth centres cannot continue to be pursued uncritically. Established machinery for the formulation and the implementation of regional policies and re-assessment. Some agencies or organisations exist without clearly defined areas for development and there are others without identifiable functions and thus lack a sense of direction. Some literally try to usurp the functions of established agencies.

REGIONAL DEVELOPMENT STRATEGIES IN THE LATE 1980s

The plan's key word is co-ordination of development efforts. This has become an adage already. Plan after plan the very same issue is stressed. It seems that over the years the government has been unable to co-ordinate developments due to inter-departmental rivalry and uneasy relations between federal and state departments. The economic slow down has sobered the government in a way. Industrial dispersal as implemented during the previous two national plans will be stopped. Concentration of development, especially of industries, will be the order of the day. The plan moves to de-emphasize states "in favour of regions for planning that has direct implications on industrial locations and the selection of growth centres for priority development."¹¹

Interstate co-operation in joint programmes as stated in the plan will ultimately minimise inter-state competitions for limited resources. The strategy for industrial dispersal as implemented in the previous plan has established countless industrial estates in various states and these states, not only compete among themselves for the limited investments from

local and foreign firms, but worst still, the various industrial estates within a state have to out do each other for the few investments that comes to the state. Usually the state government will give priority to those industrial estates established by the State Economic Development Co-operation. These are the most strategic industrial estates in terms of location. Those established by the Regional Development Authorities (Federal Agencies) will remain unoccupied. The second issue is the oft-heard statement in numerous plans of the developed countries, i.e. "to strike a balance between people-prosperity and place-prosperity strategies."¹² In accordance with this, the plan recommends that "within each region, steps will be taken to restructure the agricultural sector in order to introduce new vigour . . . and modernise the rural areas through the rural urbanisation programmes."¹³

When the dismal performance of the country's golden crop i.e. oil palm and other export crops restructuring the agricultural sector will be a long and difficult task. Even tobacco, the main money-earner for the small farmers who used to plant paddy, are susceptible to inclement weather conditions which has become unfavourable lately. Emphasis on the private sector to develop urban centres at a time when private investment is at the lowest ebb will mean whatever investment that comes in will be welcomed and rules and regulations regarding development of projects by the private sector will be less stringent. The private sector can in fact "blackmail" the government to agree to their terms. In fact the plan states that, "constraints to private sector investment will be removed so that urban centres are able to increase their absorptive capacity to meet the rapidly expanding labour force."¹⁴

Thirdly, the plan, stresses on population mobility as a means to reduce inter-regional disparity. Despite the unfavourable experience regarding the establishment of new urban centres as centres of growth and despite the fact that these new centres failed to absorb urban-bound migrants the plans still believe in the absorptive capacity and potential of new centres. The plan hopes to increase the income level of those remaining in the region through agricultural revitalisation. But bearing in mind that those who are left behind are the old and those less capable of acquiring new skills trying to raise their income level will be frustrating. Those who are left behind are those who lack the potential and they are too old to make a move.

The plan acknowledges that ". . .those who moves tends to be young, better educated and more productive, . . ."¹⁵ In the past the objective was

to forestall rural-urban migration and realising that this is not possible the present plan aims to "facilitate the development of a desirable internal migration pattern within regions and to this end positive measures to promote such movements will be formulated."¹⁶ To encourage intra-regional migration or movements "... centres in a region will be developed to attract the rural-urban migrants. . . , those who move from small to a larger towns, thereby reducing the inter-regional flow of migrants from less to the more developed regions. . ."¹⁷ This strategy underestimates the pattern and nature of rural-migration in many developing countries. The attraction to the larger metropolis still dominates and even so in the future and this will be true even in the case of Malaysia.

NEW ELEMENTS IN REGIONAL DEVELOPMENT STRATEGIES

For the first time the government give full cognizance of the role and importance of the spatial and settlement system in realising the objectives of regional development. Before this, regional development is basically economic development at the sub-national scale. Important geographical concepts, such as spatial distribution of settlement or the settlement system, were only incorporated in the national development plans sparingly. There was no conscientious development effort to include the settlement system as part and parcel of the regional development effort. This was so because of the non-existence of a national urbanisation plan that can outline the settlement pattern in the years ahead. With the completion of the National Spatial Plan during the early part of the Fifth Malaysia Plan integration of spatial planning with the planning and implementation at the macro, sectoral and project level will be more organised and co-ordinated.¹⁸ Other national level plans such as the Industrial Master Plan and the National Agricultural Policy will be given full cognizance, but there are doubts regarding the appropriateness of these plans in light of the present and future downturn in world market demands.

Spatial policies to be developed must be different from those of advanced economies. Developing countries have the habit of copying foreign policies with little or no improvisation at all. Nevertheless there are some guidelines as to how to formulate an appropriate National Urbanisation Strategy (NUS). According to Renaud¹⁸ the most crucial prerequisites for an effective NUS are political commitment at the

highest level and appropriate adjustments of the governmental structure and modes of operation. Renaud continues further that commitment to better policies for urbanisation is likely to bring greater convergence and interaction between the implicit effects of national policies, explicit spatial policies and policies addressed to the problems of the largest cities.

Some of the regional development strategies outlined in the Fifth Malaysia Plan contradict past experiences and if these strategies are to be made workable and in line with the NUS some strategies need to be re-evaluated. Otherwise the regional development strategies will negate the benefits of a NUS. The plan is correct in not attempting to spread resources over all the regions and cities because this is not likely to be effective after all. State governments will always be pressuring for resources and it needs a strong centralised government to resist such pressures. The problems of lagging regions must be addressed to on the basis of growth potentials, i.e. in terms of the ability of centres in the lagging regions to create agglomeration economies. This poor and under-developed region must have a well developed urban system to transmit growth impulses. New towns or new townships, as it is known in Malaysia, should be abandoned. They are wasteful and inefficient ways of tackling the problems of rapid urban growth. Thus Malaysia must have a NUS in advance of any effort to develop her regions. NUS should be the basis for regional development planning and not the other way round.

CONCLUSION

There are voluminous literature on the reasons by Malaysia has failed to achieve significant reduction in regional welfare differentials. The Fifth Malaysia Plan and the related regional development strategies try to make good whatever shortcomings of the previous plans in terms of narrowing the gap of regional inequality. Malaysia still believes in the spirit and purpose of regional development planning as first outlined in the Third Malaysia Plan, 1967-80. Looking back to the events that led to the introduction of the NEP and subsequently the strategies of regional development as an instrument with which to achieve some of the objectives one can understand why the government is very keen on promoting and continuing with regional development planning.

The risk of not doing is too great for any decision-makers or politicians to gamble with. Whatever success that has been achieved so

far should be used as a basis to carry on with implementing the regional development strategies that have been identified as appropriate. With the kind of political stability and political continuity decision-makers should not rush to achieve results. Some positive effects of regional policies might take longer to materialise and numerous researches have proven this. The plan is right in stressing that in the final analysis implementation of regional policies requires the support from both the government agencies involved in development as well as the people. To keep the government departments to toe the line, political patronage is required. The government's sincerity and public-service oriented nature of the government are vital in order to mobilise people's support. The government needs to work on these issues urgently. The Fifth Malaysia Plan is the most challenging plan of all since this plan will determine what is to come after 1990.

NOTES AND REFERENCES

1. Alden, J.D. and Awang, A.H., "Regional Development Planning in Malaysia," *Regional Studies*, Vol 19, No. 6, 1985.
2. Government of Malaysia, *Fifth Malaysia Plan, 1986-90* (Kuala Lumpur: National Printing Department, 1986).
3. *Fifth Malaysia Plan*.
4. *Ibid.*
5. Malaysia can be disaggregated into six regions namely Northern Region (comprising the states of Perak, Perlis, Pulau, Pinang and Kedah); Central Region (comprising the states of Selangor, Melaka, Negeri Sembilan and the Federal Territory of Kuala Lumpur); Eastern Region (comprising the states of Kelantan, Terengganu and Pahang); Southern Region (comprising the state of Johor only); Sabah Region (comprising the state of Sabah and the Federal Territory of Labuan) and Sarawak Region (comprising the state of Sarawak only).
6. *Fifth Malaysia Plan*.
7. Federal and state powers and functions are clearly set out in Part VI of the Federal Constitution.
8. *Fifth Malaysia Plan*.
9. Government of Malaysia, *Fourth Malaysia Plan, 1981-85*, National Printing Department, Kuala Lumpur, 1981.
10. *Fifth Malaysia Plan*.
11. *Ibid.*
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*

16. *Ibid.*

17. *Ibid.*

18. Renaud B., *National Urbanisation Policy in Developing Countries*, A World Bank Research Publication, 1981.

9

The Phenomenon of Illegal Immigrants**

FIRDAUS HAJI ABDULLAH*

One of the most significant issues (and currently most topical and problematic) in the Malaysia-Indonesia relations is the illegal immigrants phenomenon. This is a phenomenon more than just what the population experts or the human resource economists might call "cross country labour movement". It has significant bearings not only on social and economic but also on political and security as well as on religious and cultural matters. And not less significant, it has created a string of administrative and managerial challenges to the public and the private sectors in both countries. To both governments it has certainly become an embarrassing diplomatic issue. It is complicated and multi-faceted.

It is a sensitive issue to different groups in both countries and it has caused the various groups many dilemmas. Mishandling of the issues could easily lead to a host of untoward situations. Hence this is an issue which put both countries in the *jalan melereng* mode of relationship. Both

* Division of Public Administration, Faculty of Economics & Administration, University of Malay

** This article is the second part of "Issues in Malaysia-Indonesia Relations," paper presented at ASEAN Fellowship Seminar, Japan Institute of International Affairs, Tokyo, Japan, 20 August 1992.

have to tackle it with extra care and patience as well as with extra tact and understanding, giving importance to the latent as well the obvious ramifications of the situation.

In Malaysia, the issue is a source of political embarrassment to the government, whereas some politicians as well as political observers perceived it as a potential security risk. But to employers in the construction and plantation sectors, the illegal immigrants are a source of the much-needed labour supply.¹ To the local petty traders they are arch-rivals and strong-willed competitors who would potentially displace or outsmart them in petty trading hawking businesses.² To working couples or middle class households in the urban areas, they are a source of supply for house maids.³ And to the general population some of the illegal immigrants are perceived to be criminal menace who would indulge in house breaking, rapes and even murders.⁴

In Indonesia (certainly they are not referred to as 'illegal immigrants') the emigrants are considered as foreign exchange earners, although the amount is relatively small as compared to that earned by other sectors. Or in other sense they are regarded as surplus labour force seeking employment in a foreign country.⁵ Hence, it reduces the high unemployment rate at home. From another angle, the Indonesian government might look at the phenomenon as a diplomatic embarrassment as well as additional administrative burden especially when the emigrants were abused and ill-treated by their employers in the receiving (host) country or when they were involved in criminal acts or suffered tragedies such as ship-wrecks.⁶ To their fellow villagers where they are originated, the emigrants are perceived as "the ones who have economically made it" and are in a position to send home remittance for the material betterment of their respective families.⁷ In short, the "illegal" emigrant/immigrant phenomenon is certainly not a simple or straight forward issue in the Malaysia-Indonesia relations. It is multi-dimensional and bear various ramifications.

Although the Malaysian government treated the problem more seriously within the last one or two years, complaints from the Malaysian public against the illegal immigrants were aired as early as 1981, or perhaps earlier. The complaining voice of the public was amplified in Parliament by an opposition leader when he said: "The Indonesians rape, plunder and pillage."⁸ In a sense the opposition leader might be considered as exaggerating or over-generalizing. But a few years after he made the statement, a government statistics revealed an alarming fact. According to records at the police headquarters in Kuala Lumpur,

between 1958-88, a total of 4,333 crimes in Peninsular Malaysia were committed by the Indonesians including murder, robbery with fire arms, rape, assault, house breaking and theft.⁹ In terms of the overall crime rate in Malaysia, the figure can be considered as not high. But if the number is considered in proportion to the Indonesian population in the country, then its percentage would be abnormally high.

What was more alarming was when the Indonesians committed the crimes against famous individuals or against those who were considered to be "well protected." Among those who became the victims was a retired top national leader, the late Tun Sardon Jubir who, during his active years, had held several prominent positions in the country such as Governor of the Penang State, Ambassador to the United Nations and several Ministerial posts in the Fifties and Sixties. In November 1981, his house in the elite residential area in Kuala Lumpur was broken into by "three robbers with Indonesian accents." He and his wife were each tied to a chair at knife point while the robbers ransacked the house and then escaped with jewellery and cash worth several thousand Malaysian dollars.¹⁰

Similar incidents happened to principals (heads) of two residential colleges on the University of Malaysia campus in Kuala Lumpur in early 1984. (At that time the writer himself was also a principal of another residential college on the same campus). The campus was supposed to be well guarded around the clock by a troop of security guards; yet the criminals could break in. Another instance was the case of a 12-year-old daughter of a prominent citizen in the southern state of Johore, who was raped by robbers "with Javanese (Indonesian) accents."¹¹

It is widely believed that some of the robbers applied "black magic" to hypnotize or to make their victims unconscious. Naturally, all these cause considerable alarm and intense resentment among the general public. The fear was compounded by the fact that even prominent citizens and residents of supposedly "safe area" became easily vulnerable to criminal acts perpetrated by the illegal Indonesian immigrants.

But Malaysian concerns and worries about the illegal immigrants were due not only to their criminal activities, but also to many other factors. And one of these factors is their large size which seemed to be ever increasing over the years. Due to the clandestine nature of their movements and whereabouts it is naturally difficult to get an accurate statistics of their size. But by inference and mere observation, it is not

difficult to notice their astronomical increase. This writer recollects his own personal observation on how such increase occurred in certain areas in and around the capital of Kuala Lumpur within the last ten years. For example around the Chow Kit area (known to be the busiest market place in the country) one could easily have the impression he is in certain parts of Jakarta or typical Indonesian big cities. There is hardly a single moment when one's eyes are free from seeing the Indonesians regardless where he stands and towards which direction he looks in the Chow Kit area.

According to a socio-anthropological study of a squatter area in Kuala Lumpur, the number of Indonesian illegal immigrants residing in that particular area increased from six or seven in the early Seventies to an estimated 4,000 in mid-Eighties.¹² The rapid increase was due both to reproduction and immigration of relatives and friends of the "pioneers". The same study reported a case where an early immigrant was followed by twenty-five members of his immediate family within ten years after his arrival.

There are several explanations as to why and how the Indonesian immigrants flooded into Malaysia over the last fifteen years. The "push" factors from Indonesia and the "pull" factors in Malaysia worked in tandem in inducing the large number of Indonesians to migrate to Malaysia since mid-Seventies when the implementation of Malaysia's New Economic Policy (NEP) gained its momentum. In response to the NEP's urbanization and industrialization programmes, sizeable portion of Malay youths from the rural areas moved to the urban areas and caused labour shortage in the agricultural sector. Both the government-sponsored land development and agricultural resettlement schemes as well as private plantation estates were in desperate need of labourers.

The labour shortage had disrupted the agricultural productions and consequently caused considerable loss. Members of United Planters Association, claimed that in 1980 they suffered a loss of US\$ 23 million due to the labour shortage.¹³ Until recently the agricultural sector remains a major foreign exchange earner for Malaysia. In 1988, for example, rubber and palm oil accounted for 17.7 per cent of the country's export earnings.¹⁴ Thus when members of the United Planters Association suffered heavy losses due to the labour shortage it also means a loss to the government in terms of taxes. Perhaps this was why the government conceded to the plantation owners request to employ

foreign labourers. And for several reasons the most readily available foreign labourers for the Malaysian plantations were those from Indonesia.

Limited economic opportunities and acute unemployment problems in Indonesia became the "push factor" to migrate. From the Malaysian side, the main "pull factors" were the unemployment opportunities with much higher wages as compared to what one would earn in Indonesia, although in Malaysia the Indonesian labourers do not get the same deal as their local counterparts. In a palm oil plantation in Malaysia, an Indonesian labourer could earn between Rp 7,000 to Rp 8,000 (roughly equivalent to US\$ 3.00-\$ 4.00) a day; whereas in the Indonesian island of Lombok an average daily wage was only between Rp 500-Rp 1,000.¹⁵ And according to an International Labour Office report, the monthly wage of a construction labourer in Indonesia is only Rp 39,000 (US \$ 22.56) whereas his counterpart in Malaysia receives M\$ 618.00 (US \$ 228.89).

In addition to better employment opportunities and higher wages, the high degree of linguistic similarity between the two countries reduced the communication problems for the Indonesian labourers to work in Malaysia. In addition, there is similar cultural heritage and religion which further encouraged the migration.¹⁶ And the geographical proximity reduced the transport/travelling problems from them to come without having to go through government immigration formalities. The nearest Indonesian island from Malaysia is only thirty minutes by motorboat. These are the main factors that induced the influx of Indonesian immigrants to Malaysia.

When the influx began in the mid-seventies, the immigrants' main destination was the rural areas, specifically the oil palm and rubber plantation estates and government land development schemes. Since they were brought in (or rather smuggled in) by "illegal syndicates" or informal social networks in a surreptitious manner, their arrival in the early years was hardly noticeable. And since they were largely confined to the locality of their working areas in the plantation estates, their presence then was barely felt by the mainstream of the population. They rarely came to the urban areas, and when they did they did not appear to be too obvious because their number was still relatively small.

But towards the end of the seventies, their presence in the country began to be increasingly felt by the local population due to their frequent appearances in public places in the urban areas. By then their number

was increasingly higher and their employment was no longer confined to the agricultural sector in the rural areas. Now their services were equally needed in the construction sector in the urban areas. At the same time middle class families in the urban areas were also increasingly in need of the Indonesian housemaids. This was because rural Malaysian girls who would usually work as maids with middle-class households in the urban areas, were now more interested to work in various factories which were now proliferating thanks to the rapid industrialization process. Thus employment opportunities for the Indonesian immigrants were now expanding from the agricultural to the construction and the service sectors. Hence their number increased substantially and thereby their presence in the country became increasingly felt.

As mentioned earlier, due to the clandestine nature of their arrival, their exact number is difficult to determine, but the fact they increased astronomically over the years, is not difficult to gauge. In August 1979, one of the Malaysian dailies, *The Star* quoted a source from the Ministry of Labour which estimated the number of illegal Indonesian immigrants in Malaysia then to be 12,000. And two years later a regional weekly news magazine quoted Malaysian government source which estimated the number to be as high as 100,000.¹⁷ And according to the 1978/88 Report on Labour and Manpower issued by the Malaysian Ministry of Human Resources (the new name for the Ministry of Labour), in 1984 there were approximately 500,000 foreign workers in Malaysia, mostly Indonesian illegal immigrants.

In November 1991, a Member of Parliament from the opposition Democratic Action Party (DAP) who was also Secretary General of the Malaysian Trade Union Congress (MTUC), Mr. V. David contended that there were about one million foreign workers in the Malay Peninsula alone. They came not only from Indonesia but also from Bangladesh, India, Burma, Thailand and the Philippines. But a very substantial majority are Indonesian such that to many Malaysians the term immigrant or illegal labour are taken to be synonymous with Indonesians.¹⁸ Admittedly, the figures cited thus far, attributed to various sources, are unlikely to be accurate, but nevertheless, they are illustrative of two facts: *first*, the number of the illegal immigrants, indeed has grown to an alarming size; and *second*, they have caused considerable concerns and worries among the local population. And all that was compounded by frequent mass-media reports on criminal activities by some of the illegal immigrants.

In addition to the worries and concerns about their growing number and the frequent reports about the crimes committed by some of the immigrants, the local Malaysian population is also affected in other forms. And the reactions or the responses from the Malaysians are by no means uniform. Those who need their services either as plantation or construction workers and house maids or restaurant dish-washers, naturally welcome them. They provided the much needed cheap labour. But certain other segments of the Malaysian local population are resentful of the immigrants for social, economic and political reasons.

At the grass root level, they are resented by the original (local) residents of the areas where the immigrants made their congested settlements. Their influx into certain squatter areas has reduced the original residents to a minority and at the same time has worsened the standard of living because the rapid growth of the squatter population does not commensurate to the increase of basic social amenities. Water supply becomes a problem. So does garbage and waste disposal. This will naturally lead to health hazards.

The health risk is exacerbated by the fact that the immigrants enter the country not only by outskirting the immigration authority but also without any form of health scrutiny. And when they arrive, they are unable to get any form of medical treatment from any clinic both for economic reasons and for the lack of valid documents. Thus they bring in another possible harm in the form of contagious disease. The writer himself has personally come to know of a case where a family employed an Indonesian maid who happened to be suffering from tuberculosis. As usual, the maid was employed through an illegal syndicate which never made any attempt to ascertain her health status. Her illness came to the employer's knowledge through a neighbour who saw her groaning and vomiting blood in the house compound while the employer (who happened to be the writer's brother-in-law) and his wife were at their working places.

Another study conducted in the Sabah State (East Malaysia) found out that "the congested and unsanitary conditions under which the illegal immigrants live have led to the sporadic outbreaks of measles and cholera.¹⁹ And in certain areas in Peninsular Malaysia, the illegal immigrants have brought in back malaria which was eradicated in the country many years ago.²⁰

Besides health hazard, the congested condition of the immigrant dwelling places has also proved to be a fire hazard. A case in point was

an incident in one of their squatter areas in Kuala Lumpur in 1986 when twenty wooden houses (or rather shacks) were gutted in less than fifteen minutes and made about 200 of the illegal immigrants homeless.²¹ The writer has also personally seen another immigrant squatter area where electrical power supply was haphazardly extended to several houses through a net of extension wires a single outlet. Such a case is another cause of resentment from the local residents at the grass root level.

From the political point of view, the Malaysian public reactions to the illegal Indonesian immigrants differ according to ethnic groups and are changing over time. In the early years of their presence, the immigrants were "silently welcomed" by the ethnic Malays who form the main component of the *bumiputera* (indigenous population). In other words, in those early years, generally the Malays did not show any overt resentment because they did not perceive the presence of the immigrants to adversely affect them. Instead, the immigrants were then perceived as *bangsa serumpun* (people of the same ethnic stock) who would eventually assimilate with the local *bumiputera*. Thus, in the long-run the Indonesian immigrants were regarded to have strengthened the Malays' electoral power *vis-a-vis* the non-Malays because it was assumed that they (or their offsprings) will be assimilated with the local Malays. Such an assumption was reinforced by a statement made by a Deputy Minister who is also a high-ranking youth leader of the ruling party, the United Malays National Organization (UMNO), as quoted by a Jakarta based newsmagazine, *Tempo*:

It is true that today the Indonesia immigrants do not contribute anything towards UMNO. But it would be different after they stay in this country for ten years and are allowed to apply for citizenship and thereby become voters. Even their offsprings in this country will automatically become Malaysian citizens.²²

In other words, the political assumption of the local Malays towards the Indonesian immigrants in the early years was that they "would strengthen the position of the Malays in the country's delicate communal balance."²³ Because of that their presence then was either silently condoned or tolerated or secretly (tacitly) encouraged. On the part of the non-Malays, however, while they share the same assumption as the Malays as stated above, they were naturally resentful of its implications, as stated by a researcher:

Local non-Malays have been concerned that since the Indonesians are of ethnic Malay stock they would change the Malay-non Malay demographic ratios in the country which would have potentially explosive implication since the apportioning of the political and economic powers is based heavily on ethnic shares in the population.²⁴

However, over the years, while the non-Malays' political response remained the same, the Malays' reaction began to change as they gradually realized that the current or the immediate impact of the Indonesian immigrants' presence has adversely affected their interests. The working class or the lower income group began to see the Indonesians as rivals in obtaining limited social amenities, encroaching into their traditional domain of "social and economic cakes."

Then there was another additional factor that made the Malays more resentful. It was reported that some of the Indonesian illegal immigrants were Christians and there were those who tried to establish their church and some were alleged to have spread Christianity among the Malays.²⁵ Spreading or propagating other "religious doctrines or beliefs among the persons professing the religion of Islam" is prohibited or restricted by the Federal or State law.²⁶ Thus it is considered as a constitutional offence to do so. And the Malays, who are generally orthodox about their religion, took it as a sensitive issue and a serious social offence.

The concerns of the Malays regarding this matter were highlighted by the President of the UMNO Youth who is also a Cabinet Minister, Dato Seri Najib Tun Razak, when he said that "the illegal immigrants preached Christianity in a subtle and quiet manner." And he considered it as the "biggest threat facing Muslims in Malaysia today."²⁷ In short, it was quite a "shocking eye-opener" for the man on the street among the general Malay public to discover that his "Indonesian blood brothers" professed a different religion. Inevitably this added up to the local Malays' resentment against the immigrants. Of course, there was further aggravation among Malaysians of all social and economic classes regardless of ethnic origins, with the increasing crime rate perpetrated by some of the Indonesians.

The economic ramifications of the immigrants have caused resentments from at least three groups: trade unions, petty traders and local authority enforcement officers. The trade unions were resentful of the illegal immigrants in Malaysia, especially against those employed in

the plantation sector because the "cheap labour" provided by the Indonesian undermined their bargaining power. Given the choice, the Malaysian plantation owners prefer to employ the illegal immigrants, because in that way they are free from the obligation to observe the Malaysian labour law which *inter alia* stipulated a minimum pay between M\$9.00-M\$12.00 per day. Employers in Malaysia are also obliged to provide medical services, accident compensation benefits and Employees Provident Fund (EPF). However, the Indonesian immigrants being used to much lower wages and a lower standard of living in their country, are willing to accept much less pay than their Malaysian counterparts. And since they are illegally employed they are deprived of the benefits that the employers normally provide under the official Malaysian labour law.

The availability of such "cheap illegal immigrant labour" consequently strengthened the employers' bargaining position *vis-a-vis* the local trade unions. Naturally this would have adverse effects on the efforts of the trade unions to improve the wages and other employment benefits of the Malaysian workers. Thus it is not surprising if they are resentful of the immigrant workers and it is understandable if the trade union movement protested strongly against the inflow of the foreign labour regardless of whether they come legally or illegally.²⁸

Besides the trade union movement which represents the interests of the local plantation workers, another segment of the Malaysian society that is resentful of the illegal immigrants is the petty traders, because, as one journalist put it, "for the migrant, the next step from the plantations is to become an urban hawker or petty tradesman."²⁹ In addition, according to another journalist, "an increasing number of them have become parking-bay attendants, waiters and cooks, cobblers, tailors, taxi drivers, petrol kiosk operators, laundry shop attendants, car washers and mechanics, cleaners at office complexes and supermarkets, and helpers at retail outlets."³⁰ And the writer himself has been patronizing a barber shop in Kuala Lumpur which currently employs at least one Indonesian illegal immigrant.

In February 1992, according to a newspaper report, the Kuala Lumpur City Hall has traced "more than 8,000 illegal immigrant traders, mostly Indonesians, and they had monopolized petty trade in several areas in the city. All that has caused concerns to and brought complaints from the Malaysian Malay Chamber of Commerce (MMCC). The Federal Territory (Kuala Lumpur and its surrounding administrative area) branch

chairman of the MMCC, Moehamad Izat Emir urged the government to "act firmly and restrict allowing the immigrants to work in sectors facing shortage of local worker such as in the plantations or construction industry." He feared that the Indonesians could easily outnumber the local petty traders and monopolize petty trade in the Federal Territory in "no time". He further warned that "if firm action is not taken the problem may become unmanageable."³¹

Indeed, in certain areas, especially in the famous Chow Kit Market Place, local petty traders have already been outnumbered by the immigrants in the ratio of two to one.³² And the possible problem of "unmanageability" alluded to by Mohammed Izat had shown its ugly head as early as 1981 when "100 Indonesian petty traders in the capital, Kuala Lumpur, fought enforcement officers at the Chow Kit Market."³³

Thus far we have looked at the illegal immigrant phenomenon mainly from its negative (and to a lesser extent positive) impact on the Malaysians. However, in order to get a proper perspective of the whole phenomenon, it is also necessary to briefly look at another dimension, or the other side of the coin, namely, from the immigrants' angle. As mentioned earlier, the main motivating factor for the Indonesian immigrants to come to Malaysia is to look for better economic opportunities in order to escape from the intolerable poverty in their homeland.

From their ever increasing number coming to Malaysia, it can be deduced they have been successful, at least in relative sense, in their search for economic betterment. The success of the earlier comers enticed others to follow suit. Their "economic success" can also be gauged from the amount of money they send home to their families and relatives. For example, remittances sent to a district in Southern Lombok, a poverty stricken island to the east of Java, came to the amount of 200 million rupiahs (roughly US\$120,000) a month which is considerably high by local standard. This amount is sent through the local branch of BNI 1946 State Bank in the town of Mataram.³⁴ It is conceivable that some smaller amount is also sent through returning friends or other informal channels. But, to be sure, such an "economic achievement" by the immigrants from the Lombok island, and generally like from any other parts of Indonesia, is a hard earned one.

Venturing to be illegal immigrants for the Indonesians, most of whom barely had primary education and some were even illiterate, metaphorically amounts to sailing in the uncharted sea. Some of those

who came to seek employment as house maids were young wives who left behind not only their husbands but also their young children. There were also young divorces who left behind their young children under the care of aunts or grandmothers.³⁵

Almost all of them had never before left their home districts which meant they seldom travelled more than 100 kilometres away from their homes, let alone to another country. In other words, there was a psychological problem due to the trauma of separation with loved ones. Then in the journey to Malaysia, from the moment they made preparation to go until they finally reached their destinations to be employed (either as a plantation labourer or a construction worker or a house maid) and received their salaries, they have to go through series of challenging experiences and hostile environment.

To begin with, before he leaves his home village, a prospective migrant has to raise some money for the initial expenses of the journey including fare for the passage. And in some cases, an immigrant had to pay a single journey passage more than once in the sense that after paying the local recruiting agent or the middleman on the point of departure, he had to pay again to another agent once he reached his destination and was about to start getting employed. In most cases the payment at the point of departure was made from the money raised by obtaining a loan or contribution from relatives.

According to the chairman of the Jakarta-based Indonesian Migrant Workers' Association, Drs. Mansyur Sangkala, "many villagers in the remote areas sold whatever possession they had to pay for the trip."³⁶ "Payment" to the agent at the arrival time point is made by taking "loan" or "advanced salary" from the prospective employer. This means that he started his employment as an "indebted labourer" for several months. Therefore, he will not be getting any pay for the first few months of his employment. Thus, exploitation occurred right from the moment, or even before, the immigrant leaves his home village. One of the worst form of exploitation will be when "some middlemen abandoned the immigrant workers along the way after pocketing their money."³⁷ And there were also cases where an immigrant is "sold" several times in the sense that he has to go through more than one agent or middleman before he meets his ultimate employer.

But victimization by ruthless middlemen and exploitation by selfish employers are only part of the hardships or tribulations the migrant workers have to go through. As mentioned earlier, their pay rates in the

plantation estates are lower than their local counterparts. They receive no other benefits and are not protected by the labour law. Their living conditions also leave much to be desired, or one may even call it "substandard" and "pathetic." Those who worked in the plantation estates live in temporary wooden huts with minimum facilities and far from human settlements. There are no proper bathing and sleeping areas.³⁸ Although their earnings, according to some reports, are "roughly four times than what they earned back at home (in Indonesia),"³⁹ but according to a researcher, in certain cases it can be "atrociously low" (by local standard) such that "they could barely survive on their wages and had to eat tapioca and shoots to save money."⁴⁰

Another form of "occupational hazard" they have to face is the precariousness of their jobs since most of them work in the plantation estates and land development schemes as "contract labourers." In other words, they are not directly employed by the plantation owners or the management of the land development schemes, instead, they are employed by a "contractor." A contractor is usually awarded (by the management of the land schemes or the plantation owners) to undertake certain jobs like cutting down trees, terracing the slopes, digging holes, planting or plucking oil palm, tapping rubber trees, clearing bushes, weeding, etc. It is to do such jobs that a "contractor" employs the illegal immigrants in the plantation sector.

In the construction sector they are employed by the contractor to lay bricks, mix cement, ferry sand and other types of manual labour. A contractor may or may not make a profit on the job contracted to him. If he does he may be able to pay the workers as promised. But if he loses on a project, say, for example, due to penalty for late work delivery, he sometimes passes on his losses to the workers. In the case of such event, the workers are helpless. They cannot do anything, at least not openly, against such contractor for fear that the contractor concerned might report him to the authority. Indeed, according to some reports, some unscrupulous contractors did actually report their workers to the police once a project is completed so that the workers get arrested and deported.⁴¹

Arrest and deportation are the "twin fears" that often haunt the illegal immigrants. And accordingly these are among the most effective "threats" a contractor or any other employer often use to intimidate them. Although in the early years arrest and deportation of the illegal immigrants were seldom heard of, since the early eighties, the Malaysian

government was more or less "forced" to do it because of the increasing complaints against the immigrants especially from the non-Malay political parties or from the general public who became increasingly concerned with the reported crimes committed by some of the immigrants.

One of the earlier informations about the arrest and deportation of the illegal immigration was in 1981 when it was reported that over the preceding three years (from August 1978), there were 8,212 illegals, mostly Indonesians, who have been deported.⁴² The number increased significantly in 1983 when about 29,000 of them two-thirds of them from Indonesia — were arrested and about 19,500 of them were deported to their respective countries.⁴³ Between 1985 and 1988, an average 13,000 Indonesian illegal immigrants were arrested every year and an average 11,000 of them were deported.⁴⁴ And in 1989 the number of Indonesians deported from Malaysia went up to 22,225 but in 1990 it slipped down to 18,053 and between January-May 1990 the number was 11,825.⁴⁵

Of course, the number of those arrested and deported was only a small fraction of their total number in the whole country. And furthermore, those deported usually find it relatively easy to slip back into Malaysia in spite of the troubles they have to undergo and amount of time and other resources they have to waste. But the fact remains that arrest and deportation are the "twin-fears" and major sources of apprehension that haunt the illegal immigrants.

However, there is yet another source of worry and fear, namely, fatal accident during the journey. One of such unfortunate happenings was dramatically described by a journalist in the following words:

The night of 20 May 1989 is one the villages of Batu Nampar in south-east Lombok will always remember. Near their village is a mass grave containing the remains of thirty-seven victims from the motor vessel *Dharma Mulia*, which foundered during a storm in the Lombok Straits that night. On board were 300 or so Lombok men who had left Batu Nampar on the first leg of a long and dangerous journey to find work in Malaysia. All of them perished.⁴⁶

An earlier tragedy happened towards the end of 1985 off the coast of Pontian (in the southern state of Johore) involving a group of the immigrants who were on their journey home to Indonesia to celebrate the end of Ramadhan, the Muslim fasting month. Their overcrowded boat,

which took off from an illegal jetty in Pontian, sank while half-way to Bagansiapi-api, the nearest landing point on the Indonesian side. No less than 60 people were killed.⁴⁷

From a number of immigrants he encountered, the writer himself gathered that the vehicles they boarded, be it on land or on water, were always overloaded with passengers and goods. Such that it is surprising if an accident does not occur. Of course not all accidents involving the transportation of the illegal immigrants were reported in the press. Nevertheless reports of such occurrences were still relatively frequent.

Another incident occurred in June 1991 involving those who were deported by the Malaysian authorities in a barter boat across the Straits of Malacca. The barter boat was escorted by the Malaysian Marine Police up to the international waters. But beyond that, the boat with the deportees was left on its own. As far as the Malaysian authorities were concerned, deporting the illegal immigrants was in accordance with the national interest and national security measures that needed to be taken. But when the boat capsized and some of them were drowned, as *Business Times* put it, "the humanitarian factor came to the fore."⁴⁸ And this is the major dilemma the Malaysian government has to face in dealing with the illegal immigrant phenomenon: to strike a balance between "national interests" and "humanitarian factors."

To further compound the dilemma is the fact that the illegal immigrants come from a neighbouring country with which Malaysia is supposed to have a "special relationship." On the part of the Indonesian authorities, the dilemma took a different form but was not less perplexing. While the Indonesian government realized the various ramifications of the clandestine flow of her job-seekers between the countries she is short-handed to handle all the attendant problems.

Besides occasional tragedies during their journeys, there have also been reports on the ill-treatment and exploitation of the Indonesian workers overseas including in Malaysia.⁴⁹ Then Indonesian Manpower Minister, Cosmas Batubara was quoted to have said: "We want to stop the illegal migration because we don't want to see people treated like this — it is not human."⁵⁰ Two years later the Minister's remark was echoed by the Indonesian Ambassador to Malaysia, Sunarso Djajusman, who admitted that the illegal immigrants had created many problems and posed a burden to Malaysia. He said: "We understand Malaysia's problem. Indonesia also does not want its people to seek employment elsewhere without going through the proper channel."⁵¹

But the Ambassador did not say that "going through the proper channel" could mean just as good as not going overseas at all. Because, "proper channel" means obtaining proper travel documents which could take up to six months to complete,⁵² and also paying an "exit tax" required from all Indonesians leaving the country, which the poverty stricken prospective immigrant could ill-afford.⁵³ But Ambassador Soenarso implicitly admitted that it is not an easy task to enforce the process of "going through proper channel". He stressed that "halting the intermigration of people, a process which has been going on for generations between the countries, is almost impossible."⁵⁴

Nevertheless, since the issue has grown to such a magnitude in the two countries, both governments made several attempts to treat it bilaterally and coordinate their efforts to find a suitable solution. One of the early attempts was the signing of a labour pact in 1984 known as "The Medan Agreement," signed at the northern Sumatran city of Medan. The agreement stipulated that "Indonesian agrees to supply to Malaysia such number and categories of workers as may from time to time, be requested from Malaysia." It was hoped that agreement will "curb the illegal immigration" and at the same time will "safeguard the immigration workers against exploitation by the Malaysian employers." But it turned out that this pact did not produce the desired results. It completely failed to stop the flow of illegal immigrants, and the unauthorized agents or middlemen continued their "illegal recruitment."

According to the officials of the Malaysian Ministry of Home Affairs the pact was unworkable because it entailed "too much bureaucratic procedures which are time-consuming and incomprehensible to the Indonesian layman."⁵⁵ But according to Ambassador Soenarso, "the exercise (as stipulated in Medan Agreement) never progressed because problems that arose were not addressed properly."⁵⁶ Apparently there was difference of opinion between the Malaysian Home Affairs Ministry officials and the Indonesian Ambassador as to why the Medan Agreement failed to achieve the desired results. But the former Indonesian Man Power Minister, Cosmas Batubara admitted that the agreement "has been difficult to implement because of the ease with which illegal labourers reach Malaysia."⁵⁷

The next major move by the Malaysian government following the failure of the Medan Agreement was the launching of another "legalization programme" in 1989 dubbed as "*Proses Pemutihan*

Pendatang Tanpa Izin." literally translated "The Whitening Process of Illegal Immigrants." Under this process, illegal workers are required to leave the country to obtain proper documents before being allowed to re-enter and work in Malaysia. The aim was to regularize or "legalize" those who are already employed in the agricultural sectors by requiring their employers to register them with the Immigration Department. In order to do that the employers were expected to arrange for a "temporary return" of the workers to a nearest Indonesian port and then to come back to Malaysia after obtaining the proper travel documents. But the process was tedious, complex, costly, and also ineffective.⁵⁸

When the 1989 "whitening process" met the same fate as the 1984 Medan Agreement, the Malaysian government announced another regularizing policy in October 1991 which seemed to be more "realistic" and less difficult for the immigrant workers and their employers to follow. It is also more encompassing in the sense that it covers not only plantation workers but also construction workers and housemaids. This new policy outlined the responsibilities of employers of immigrant workers and warned of a heavier penalty for employing illegal workers. It stipulated minimum wages and better working conditions for the workers. It is tantamount to giving them an "amnesty." They would be allowed to remain and work in the country provided they register themselves with the Malaysian Immigration Department and obtain valid travel documents from the Indonesian Embassy. And they can do all the registration process in Malaysia without having to go back to Indonesia as required under the 1989 abortive exercise.⁵⁹

Unlike the two previous regularizing exercises, this third one seemed to receive much more positive responses from the illegal immigrant workers and their respective Malaysian employers. On the first day of the exercise, November 3, 1991, about two thousand employers were reported to have swamped the Immigration Department in Kuala Lumpur to take the necessary forms to register their foreign maids.⁶⁰ Originally the registration period for this third regularising attempt was supposed to end in the middle of December 1991. But following strong appeals from the plantation and construction industries, the deadline was extended to June 30, 1992. And no less than thirty-four registration centres were up nationwide to conduct this exercise.⁶¹ It operated seven days a week including a few hours on Sundays.

And at the end of the seven-month registration period, an early report attributed to the Immigration Department Headquarters in Kuala Lumpur stated that 320,000 illegal immigrants, mostly Indonesians, have registered.⁶² An updated report of July 13, 1992 quoted the Deputy Minister of Home Affairs, Datuk Megat Junid to have said that "500,000 foreign workers had so far been registered and the majority of them, numbering 337,000 were working in the construction, plantation and domestic sectors."

However, although about half-a-million of the illegal immigrants have been "legalized" by the latest exercise, the related problems are at best only "half-solved" or even less. While it is not difficult to anticipate the continuation of various problems created by the immigrants, notwithstanding their "legal" status, it is not easy to fathom the nature, magnitude and extent of the problems in future. One might shun to think for the moment the kind of security problems the immigrants might create for Malaysia should the "1963-66 confrontation episode" repeat itself. And although it is acknowledged that the immigrants provide the needed labour force for Malaysia's various economic sectors, it should also be remembered that they have also their own economic, social and economic needs to be fulfilled. And in the course of their fulfilling the various needs, there is bound to be various kinds of conflicts among themselves as well as between them and the local residents and the authorities.

Among the many social problems discussed earlier, one has lately become more acute and has caused increasing concern within the general public and the authorities. It is pertaining to their dwelling places. Due to the tremendous increase in their number, they have "resorted to living in huts and squatter areas along roads in the country . . . and in makeshift homes along airport perimeter and under bridges . . ." ⁶³ and stressed that "these houses are without proper water and toilet facilities and contribute to the proliferation of diseases which may affect those living nearby . . . it creates an eyesore and spoil our country's beautification efforts." This new problem must have caused serious concerns to the government such that it has prompted the Cabinet to formulate a "policy on housing for registered immigrant workers."⁶⁴ But more pressing at the moment are the problems related to those who failed to register before the June 30, 1992 deadline.

Two weeks after the deadline, the Deputy Minister of Home Affairs Megat Junid said that about 100,000 illegal or "unregistered"

immigrants, mostly Indonesians, are still living in the country, although another 50,000 have voluntarily returned to Indonesia.⁶⁵ Understandably, the figures Megat Junid cited were only estimates and certainly could not be accurate. Nonetheless the fact remains that the country is still infested with a substantial number of illegal immigrants. But this time apparently the Malaysian government is most determined than ever to track down the illegal immigrants. The Deputy Minister further said that the government was "confident of flushing out all illegal foreign workers within six months."⁶⁶

In an attempt to track down and detain the remaining illegal immigrants an operation was launched, dubbed *Ops. Nyah II* ("Nyah" is a Malay word which means "Go Away"), immediately upon the expiration of the June 30 deadline, investigate and deport the illegal immigrants. Several holding centres or detention camps were set up throughout the country and six battalions of Police Field Force are mobilized for the operation.⁶⁷ It is left to be seen if the "six months target to flush out all the illegal workers" will be achieved. On its eight day of operation the *Ops. Nyah II* has deported 176 people from a total of 1,794 detained.⁶⁸ And the authorities have also detained ten persons suspected of being members of syndicates or agents involved in bringing illegal immigrants into the country.⁶⁹

Meanwhile statements pertaining to the issues by leaders of the two countries seemed to be "cautious" and "carefully worded" while at the same time showing concern for their respective national interests. The Indonesian Ambassador to Malaysia, Sudarmadji said that he was made to understand that the Malaysian government was taking good care of the detainees. But he would like to visit the seven detention camps and told reporters: "I am just checking on their conditions like the food they are getting." And he claimed no knowledge on the arrangement to depart the Indonesians as all arrangements "are being made by your (Malaysian) Home Ministry."⁷⁰ Meanwhile, Malaysian Deputy Prime Minister Ghafar Baba said that he would be visiting Indonesia officially at the end of July 1992 to "exchange views with leaders there on the issues concerning their nationals in Malaysia."⁷¹

It is left to be seen how things will develop in future, because, assuming the target of the Malaysian government to flush out the 100,000 illegal (unregistered) immigrants could be done in six months, the remaining 500,000 who have been "legalized" will certainly create

a host of other problems which are closely related to "national interests" and "humanitarian factors."

As mentioned earlier, the Indonesian illegal immigrants in Malaysia is actually a multi-dimensional phenomenon. A closer look at the various dimensions will reveal that the phenomenon is surrounded by elements of human tragedies and capitalistic exploitation, racial jealousies and political competition, bureaucratic maze and diplomatic sensitivities. And in the foreseeable future it will remain to create a host of significant and sensitive issues in the Malaysia-Indonesia relationship.

NOTES AND REFERENCES

1. Azizah Kassim, "The Unwelcome Guests: Indonesian Immigrants and Malaysian Public Responses," *Tonan Aja Kenkyu Southeast Asian Studies* 25, No. 2 (September 1987): 271, and *FEER*, 11 January 1990.
2. *STAR*, 11 February 1992.
3. Darul Amin Abd. Manaf, *Pendatang Indonesia dan Implikasinya Terhadap Negara Malaysia (1970-90): Kajian Kes di Kuala Lumpur* (Bangi: B.A. Dissertation, University Kebangsaan, 1988), 200-206.
4. *ASIaweek*, 27 November 1981.
5. Isono Sadoko, "Why are Indonesia's Overseas Workers Relatively Few Compared with Other Asian Countries?: A Look at Possible Explanation," *Asia Club Papers*, No. 3 (Tokyo: Compilation of Papers and Summary of Discussion, Tokyo Club Foundation for Global Studies, 1992), 153.
6. *FEER*, 11 January 1990.
7. Personal interview with a Malaysian employer of an Indonesian maid, Kuala Lumpur, March 1992.
8. *ASIA WEEK*, 27 November 1981.
9. Darul Amin, *Pendatang Indonesia*, 86.
10. *ASIaweek*, 27 November 1981.
11. *Ibid*.
12. Azizah Kassim, "Unwelcome Guests", 273.
13. *ASIA WEEK*, 27 November 1981.
14. *FEER*, 11 January 1990.
15. *Ibid*.
16. *FEER*, 26 April 1984.
17. *ASIaweek*, 27 November 1981.
18. Azizah Kassim, "Recruitment and Employment of Indonesian Workers: Problems and Major Policy Issues," being a paper for *ILO Inter-Country Workshop on Migrants Workers in Plantation Industry*, Kuala Lumpur, 12-17 November 1991, 5.
19. Patrick Pillai, "Malaysia: Nature, Contributory Factors, and Consequences of Cross-Country Labour Mobility," *Asia Club Papers*, No. 3 (1992), 35 (Tokyo

- Compilation of Papers and Summary of Discussion, Tokyo Club Foundation for Global Studies, 1992).
20. *Ibid.* and *FEER*, 11 January 1990
 21. Azizah Kassim, "Unwelcome Guests", 275.
 22. *TEMPO*, 24 January 1987.
 23. *FEER*, 18 April 1985.
 24. Lin Li Lian, "The Consequence of International Migration for Social Change: The Case of Malaysia," paper presented at IUSSP Workshop, Canberra, Australia, 1984, cited in Darul Amin, *Pendatang Indonesia*, 105.
 25. *STAR*, 9 August 1987.
 26. *Malaysia: Federal Constitution* (Kuala Lumpur: Government Printer, 1979), Article 11, Clause 4.
 27. *STAR*, 9 August 1987.
 28. *NEW STRAITS TIMES* (NST) (Kuala Lumpur: 31 January 1992).
 29. Suhaini Aznam, "The Malay World Dream Remains as Elusive as Ever," *FEER*, 18 April 1985.
 30. *BUSINESS TIMES*, 4 December 1991.
 31. *STAR*, 11 February 1992.
 32. Darul Amin, *Pendatang Indonesia*, 100.
 33. Azizah Kassim, "Unwelcome Guests," 270.
 34. *FEER*, 11 January 1990
 35. The writer has personally come across a number of such Indonesian maids.
 36. *BUSINESS TIMES*, 4 December 1992.
 37. *FEER*, 26 April 1984
 38. *BUSINESS TIMES*, 4 December 1991.
 39. *FEER*, 26 April 1984.
 40. Azizah Kassim, "Recruitment and Employment," 17.
 41. *Ibid.*, 18; and Suhaini Aznam, *FEER*, 11 January 1990.
 42. *ASIA WEEK*, 27 November 1981.
 43. *FEER*, 26 April 1984
 44. Azizah Kassim, "Recruitment and Employment," 4.
 45. Pillai, "Malaysia," 58.
 46. *FEER*, 11 January 1990.
 47. Azizah Kassim, "Unwelcome Guests," 271.
 48. *BUSINESS TIMES*, 3 July 1991.
 49. Isono Sadoko, "Indonesia's Overseas Workers," 153.
 50. *FEER*, 11 January 1990.
 51. *STAR*, 31 January 1992.
 52. Azizah Kassim, "Recruitment and Employment," 15.
 53. Suhaini Aznam, "Malay World Dream."
 54. *STAR*, 31 January 1992.
 55. Azizah Kassim, "Unwelcome Guests," 268.

56. *STAR*, 11 January 1992.
57. *FEER*, 11 January 1990.
58. Azizah Kassim, "Recruitment and Employment," 24.
59. *BUSINESS TIMES*, n.d.
60. *UTUSAN MALAYSIA*, 4 November 1991.
61. *NST*, 21 May 1992.
62. *NST*, 1 July 1992.
63. *NST*, 13 July 1992.
64. *Ibid.*
65. *Ibid.*
66. *Ibid.*
67. *NST*, 30 July 1992.
68. *NST*, 9 July 1992.
69. *NST*, 11 July 1992.
70. *NST*, 9 July 1992.
71. *NST*, 18 July 1992.

10

Malayan Workers and their Future

P.P. NARAYANAN*

The Malayan Trade Union Movement is a post-war development. And yet in the eyes of international visitors, including trade unionists, it has gained considerable reputation as a movement that is treading on the right path.

Except during the very early stages, when communists attempted to take hold of Malayan trade unions no other legally constituted political party has ever tried to place hurdles in the advancement and progress of the trade union movement.

But the history of Trade Union Movements in countries that surround Malaya is entirely different. Politicians in these countries had a say in the growth and progress of the labour movement. They swayed the workers to their sides by promising heaven on earth. Politicians promoted trade unionism. As a result, unions are divided not on trade or industrial basis but on political basis. This has made doctors, lawyers and others to indulge in trade union work in addition to their professional activities.

In our country, the particular trend of keeping trade unions away from political ties has, in many respects, brought it comparatively closer to the

* President, National Union of Plantation Workers, Malaya

movements in the more advanced countries of the West. We admit that the Malayan trade union movement is still in its infant stages. It has to overcome numerous obstacles created by the existing emergency laws and regulations, by language barriers, by the illiteracy of the workers and above all by the adamant attitude at times taken by some of the employers.

THE IMPACT OF EMERGENCY

The declaration of Emergency has laid many restrictions on trade union development. Organising the workers who live in remote parts of the country, became more difficult during the early stages of the Emergency when the curtain of curfew fell in almost all parts of the country after dusk. Usually trade union organisers visited the workers in the afternoons. They were able to visit and spread the 'gospel of trade unionism more easily among workers who lived a bit nearer to big towns. The organisers found it difficult to travel to the Ulu places, for by the time they travel or by the time they could finish their 'meet-the-workers' sessions, curfew would be declared and the organisers would not be allowed to go more freely. This restriction on the freedom of movement after dusk has to a great extent retarded the progress of active organising work intended to be carried out by unionists.

Even though a vast part of Malaya has now become 'white' the emergency rules and regulations still exist. The trade union representatives in the Federal Legislative Council, even during the last session on June 27th, requested the government to review the emergency laws imposed about 12 years ago when the activities of the communist terrorists were at their peak. A free and independent movement cannot ignore the impediments and difficulties which hinder their work or organising labour for the peace and stability of the country.

Any trade union movement or a social organisation needs closer association with ordinary working people of the country. The officials of the organisations have to go to the masses, talk to them, stay with them and study their living conditions. If any organisation fails to keep close contact with the people it will lose confidence of its followers and face shocking defeats in all its efforts.

Let me give an example to illustrate my argument that organisers face difficulties due to restriction on the freedom of movement. We all know that rubber estates are private properties. And so a trade union organiser

has to obtain the consent, written or verbal, from the Management concerned before entering the estate. Firstly, this itself is a restriction on the freedom of association. However, the NUPW, because it is a well established union, is not generally refused entry by the management if the union has members on the estate. But there are still a large number of estates in which the workers have to be organised. Before one visits these estates, one has to get written permission from the management. The management can create many obstructions and curb union activities.

This illustration can be applied to all industries in Malaya, where workers await to be organised. Not all, but many employers, including Asians, are at times stubborn and adamant.

Out of the 800,000 workers in Malaya, the trade unions were able to organise only 400,000 workers during the past ten years. But for the rigid regulations of the Emergency, I feel sure, that nearly all the workers in all the industries and other establishments could have been properly organised. Will the Government consider appointing a review committee to remove unwanted rules and regulations in the emergency laws and keep only those of the rules and regulations required to counteract the already weak communist activities in Malaya?

We have often heard our Ministers say that the government has pursued a policy of encouraging and fostering the growth and development of a strong, free, democratic and responsible trade union movement. Perhaps it is true that they believe in what they say. But that declaration will have to be read along with the existing circumstances. It is crystal clear, and the Ministers know it too, that the trade unions are operating under severe restrictions. The unions have declared their staunch opposition to militant communism and have expressed their desire to be democratic and free. We have fought to keep the bad elements away from our fold. Even the Prime Minister, Tunku Abdul Rahman gladly accepted our stand and said, "The big unions of this country have been a credit to the movement (TUC) and have managed to keep out the communist elements who tried to infiltrate into the organisations. I have always been confident that I can count upon the unions to give the government their fullest co-operation." It is equally true of the present small unions. People's representatives who will go into the newly elected parliament must give serious consideration to this situation and press the government to undertake a complete review of the emergency.*

* The State of Emergency came to an end on July 31st.

Workers had to face innumerable hardships. Some of the innocent workers on estates underwent inhuman torture and later were 'butchered' by the terrorists. Labour lines were set on fire and many were kidnapped. The worker's organisations stood firm to oppose terrorism take hold of Malaya. They promised all possible support to the government to wipe out communism.

The pledge remains.

TREND OF UNIONS

At present we have 260 unions in Malaya. In the early days, because of inexperience in the administration of the trade unions, the attitude of workers to large unions was not very encouraging. But since 1954 the trend has changed and more and more workers are recognising the advantage of organising national bodies. As a result, there are now no less than 25 national unions in the country. This is a very healthy trend and it is likely to grow as time goes on. The Malayan Trade Union Congress itself has categorised the unions into the following groups:

1. *Plantations*—rubber, coconuts, oil palm, tea, coffee, cocoa, pineapple, etc.
2. *Mining*—tin, iron, coal, bauxite, columbite, etc.
3. *Transport and General*—road, aviation and related categories of general workers.
4. *Manufacturing*—engineering works and factories.
5. *Harbour*—dock and water-front workers, stevedors and seamen.
6. Employees in commercial establishments and undertakings.
7. Electricity.
8. Railways.
9. *Municipal*—Town and Local Councils.
10. *Shops*—assistants and shop workers.
11. *Civilian employees* of the Armed Services.
12. *Professions*—teachers, technical assistants etc.
13. Government Employees.

It is the declared policy of the Malayan Trade Union Congress to encourage the growth of national unions under responsible leadership. Those unionists who have been abroad have found that workers cannot

deal effectively and successfully with powerful employers' organisations unless the employees' organisations also are put on firm footing and are equipped with facilities for research and libraries, education, legal assistance, industrial relations work, press and publicity, adult education facilities, etc. In the absence of such well-equipped organisation, it will not be possible for industrial workers to strengthen themselves and to bargain successfully with the employers' organisations. The remarkable success made by large unions in the Scandinavian countries, United Kingdoms, United States, Canada and Australia has always enamoured the working people in this country. The NUPW again is quoted as an example in this particular field. We are also conscious that while the work-people are engaged in their own industries there must be full-time organisers and others to direct the day-to-day work of the trade unions. The language difficulty that exists between the employers and the employees again has necessitated the engagement of full-time staff who will be conversant in English as well as in vernacular languages. Where the employer and employee speak the same language the necessity for full-time staff will be less. Perhaps when the national language (Malay) is more and more liberally used by employers and employees, this problem will disappear. But at this moment a worker has to speak always through the staff of an estate, whenever he wants to speak to the manager. Occasions are also not rare when full facts are not disclosed to the employer when such interpretations take place. The reasons are understandable.

In the early days it was true that in determining wages and working conditions and putting up demands, the policy adopted by the unions was crude. Negotiations were often followed by threats of strikes. But one cannot put the whole blame on the unions alone. There were cases where the employers refused even to acknowledge letters; leave alone agreeing to meet union representatives to discuss demands. In this field as a result of continued training, given in collaboration with the now defunct trade union department of the government and also through classes organised individually by unions, the attitude of workers changed for the better. Nowadays wherever employers are willing, negotiations do take place. The threat of strike of course, is still there but it is only very sparingly used. But where employers are adamant and refuse to meet the employees' organisations it is only natural that employers should be brought to their sense by a threat of strike. In the trade union field, it is an accepted fact that good unions do not put up pickets soon after the

demands are placed before the employer. Many unions in spite of the long delay in negotiations have proved that they believe in conciliation. How the trend of negotiations will change in future will largely depend upon the attitude of the employers.

Recently we had news of the formation of Federation of Malaya Industrial and Commercial Employers' Consultative Association to safeguard the interests of the employers. The Malayan Trades Union Congress has supported and even welcomed the formation of the body. The reason is obvious. We believe that it will be better to approach the employer, who is a green-horn in the matters of trade unionism, through an employers' organisation which we hope will be manned by trained personnel. I must also admit that in this particular aspect the Asian employers are less progressive than their European counterparts. We do expect stiff bargaining across the negotiation table when we have chance of meeting the representatives of the Federation.

In the matter of research into the cost of production, the economic stability and various other aspects of industries, we do not for a moment think that individual unions, except a few, will be able to engage trained personnel, for they lack necessary finance. What will happen is this: once the national unions as aimed at by the Malayan TUC, are formed, they will be affiliated to the TUC and the TUC will be able to develop a pool of research people, educational and industrial relations experts who may be employed full time. I for one look forward to the day when TUC will be able to discharge its duties in this sphere creditably. How soon this can be achieved will depend upon how quickly we can form the various national bodies enumerated earlier.

Whenever employers and cooperative unions have gone to the extent of suggesting formation of Joint Industrial Councils and/or Joint Consultative Councils. Wherever employers are not so cooperative they have some hotch-potch negotiations machinery. It could be boldly said that in the matter of negotiations a number of unions require training. So are some employers. Time will bring better changes and with good-will on both sides, I am sure the future can be bright.

THE MTUC's ROLE

The Malayan Trades Union Congress has been in existence since 1949. In 1950 the delegates' conference adopted a constitution and first batch of office-bearers were elected. Since then it has been the one and only body which is being consulted by employees, employers and the

government on various labour matters. Government has consulted this body in the matter of representation on various governmental bodies in this country. The TUC has always agitated for improvement in the living standards and also in the introduction of various new laws. As a result of representations made to the Government by the TUC at various levels, amendments to the trade union legislation have been made. The introduction of the provident fund scheme in spite of position from various quarters has been achieved as a result of the TUC's work. The enactment of the new employment code is another piece of legislation which has been brought about as a result of pressure from the TUC.

There is one factor in regard to which there is some misunderstanding in the minds of the people; some people fear that the TUC might intervene in every industrial dispute in the country. This is not the true position. The TUC is independent and it has only a consultative function. Its executive functions are more with the government in the matter of policy making and assisting in the creation of new labour legislation. As far as the unions are concerned the TUC will not interfere in their internal affairs unless the TUC's is asked to do so in writing. What happens is that when there is a dispute or a problem facing a particular union, that union writes to the TUC. The TUC discusses the whole problem and then picks one or two of its trained leaders to go into the dispute. Unlike in the United Kingdom, America and Scandinavian countries the TUC at present does not have a large number of full time personnel, who could be called upon to take up various responsibilities. So it calls upon the leaders of different unions who are experts in a certain field of trade unionism for help and assistance. But it is hoped that in future there will be full time paid personnel available in the TUC itself. This depends upon the support and encouragement the TUC gets from the Unions.

The TUC's position is not very enviable; it has to deal with all types of employers and unions. It has however, taken a stand that it will not tolerate Yellow unions and it will not encourage splinter unions.

It is also pledged to cooperate with any government that is voted in by the people. It has no other choice in the matter. With more trade union education, the workers will influence the votes. As time goes on, the TUC will be asked to participate more and more in various government and quasi-government bodies. Every endeavour would be made to have trained people at hand to answer the call of the country. These representatives need not necessarily be the so-called English educated. Before long more and more preference will be given to knowledgeability

of persons and not to the language he speaks. The National Joint Labour Advisory Council which was created in October, 1957 is an example. Not all the 16 trade union representatives on that council are English educated people. This particular council is the body that guides the government on the matter of labour policy to be followed in future. Equal number of representatives of employers also sit on the council. The progress of the work of the council will largely depend upon the progressive attitude of the employers and cooperation given to them by the workers representatives on this council. Instead of quibbling with words and wasting time, disagreements could be narrowed down to substance, and greater amount of work could be done without much wastage of time.

WAGES AND WORKING CONDITIONS

It could be said that wages and working conditions in Malaya compare favourably with those obtained elsewhere in Asia, excluding Philippines. The whole blame should not be put on the employers themselves. The success of any negotiations with an employer will depend primarily on two factors; one: The economic stability of the industry and the other the ability of the union to know fully well the economics of the industry and its strength to bargain with the employer. There can never be a successful bargaining between a strong employer and a weak union. If wages and working conditions are not satisfactory, the responsibility lies with the unions themselves; the more strong the unions, the more they will be in a position to know the economics of the industry and strike a better bargain. As I am referring to all unions in Malaya I can only make a general observation in the matter of wages and working conditions. We have done well compared to conditions that were existing in 1948. Our success has been the result of continued agitation for better wages and working conditions on the part of unions and the progressive response by the employers in many cases. The trade union movement as a rule has adopted a responsible attitude towards foreign capital. Through the parent body—The MTUC—it has declared that it will not object reasonable returns for capital invested. At the same time it has been firm in reminding the government that no investor should be given any false idea that there is cheap labour available in this country. It has also been agreed that we will support a voluntary system of negotiation and arbitration.

Whether we like it or not, the workers in this country are largely from immigrant stock. The conditions of work that were good enough some 25 or 30 years ago are no more liked by workers who have become citizens. Workers are becoming more and more enlightened. Although there has not been any concrete survey made for the last 8 to 10 years, there is every reason to believe that there is a greater demand for reading materials by the workers. This shows that the employers cannot look back to the so-called good old days and try to put the clock back.

The country cannot think in terms of repatriating thousands of old people who have lived here since they were young, energetic and have helped this country to reach its present peak of prosperity. For an independent country like Malaya it is not decent to pack off old working people when the whole of their vitality has been sapped in making the country rich and prosperous. It is not an exaggeration to say that fragmentation of estates has made many workers to leave Malaya. Therefore, it will be our bounden duty to think in terms of creating a stake for these people by establishment of old age homes and land settlement schemes. I know that many have talked about this before, but the progress has been lamentably slow. There is a limit beyond which no voluntary organisation can go. But this must be taken up in consultation with the Government and other voluntary bodies interested in it. It is a challenge to the future government. The ideal thing for Malaya would be to carve out settlement near estates and allow workers to live in these settlements and for employers to provide transport facilities for them to go to work and return. This idea was mooted when Sir Gerald Templar was here but owing to the pressure by the employers it did not make headway. The employers claimed that they had spent thousands and thousands of dollars in building up new homes for employees on the estates and therefore it would be a waste of good amount of money if the settlement schemes were pursued any further.

In the matter of health facilities, there is much more to be done. In many estates the conditions of hospitals are still not up to the standard. I personally feel that the entire health scheme should be brought under the control of government and contributions should be made by various employers towards the cost of treatment given to their employees. Very few people recognise that the visiting medical officers are also in the employ of the big companies and as such on various matters their hands are tied up. It is encouraging that in the post-war period there are more and more trained Hospital Assistants available on Estates but there is still

a demand from the estates for more nurses and other women personnel. This could equally be said about mines and other far away places which do not have the facilities, which the urban population enjoy.

No time should be lost in introducing legislation to check extensive fragmentation and sub-division of estates. The Government should realise that the economy of the nation would be seriously impaired if fragmentation of estates continued. Trade union representatives in the former legislative council have often pointed out to the government the importance of setting up a watch-dog committee to look into the question of fragmentation.

The ill-results produced by extensive fragmentation and sub-division of estates are: (a) The workers are being thrown out of jobs. This adds to the already mounting unemployment problem faced by the government; (b) it decreases the efficiency of the estates and thus deteriorates the quality of rubber, which at present faces a stiff competition from the synthetic; (c) many workers who had been in this country working loyally for the advancement of this nation are being repatriated.

In the matter of education, I say boldly that the Razak Policy is better than any other previous schemes. But in the present educational policy, provision has not been made for educating or keeping the children between the age of 5 and 7 usefully occupied. They now constitute a problem to the mothers on estates and mines. They are too grown up to be kept in creches and they are too small to be sent to school. There is an urgent need for introduction of Kinder Garten school for the workers' children on estates and mines. The future of many political parties will depend largely upon what future they can assure to thousands of people on the estate, mines and rural areas. A large majority of the population is living in rural areas and unless there is a complete revolutionary approach in meeting the health and educational needs of these people, sometimes things might become too difficult for those who are wanting to hold on to the power that they have enjoyed so far.

MINIMUM WAGE

Although it might not be appropriate to introduce a minimum wage scheme on a national basis it is time that various industries examine this position and decide on a minimum wage. This is fitting with the new status of our country. The days when people were satisfied with pittance as wages are gone. The TUC will only be happy to cooperate with any

group of employers and employees in helping to find out a satisfactory solution to this very urgent need. Of course, there is fear, that if a minimum wage is fixed it might turn out to be a maximum wage in an industry. This will largely depend upon how strong the unions are. With the introduction of a minimum wage in respect of industries, the unions will be able to assure that workers will not receive anything less than the minimum. I know that this country is considered as an underdeveloped one. But if we wait too long to introduce minimum wage scheme, at least industry by industry, that situation could be exploited by interested parties—Communist included.

We are looking to the day when there will be many professionals coming out of the working population. We do not expect the old order to continue. It is a dream of all of us that our future legislators, judges, accountants, engineers, doctors and others must come out of the working class population too. The trade union movement has cherished this dream and it is good for the health of the country. We must help the working population to throw up its own professional people. In this regard, some unions are now contemplating to give scholarships and other facilities for education of members' children. Active cooperation of employers and the government in the matter of education is very urgent. Many of these so-called vernacular schools must give way to group schools where not only elementary education but secondary education will also be available. We would also like to see hostels coming up where workers' children could be accommodated.

HOW FAR CAN WE GO?

The trade union movement is pledged to improve the lot of the workers of Malaya. The trade union movement has also pledged to preserve democracy in this country. We also feel that democracy cannot function successfully in an economically lopsided society. The old order where the powerful middle class reigned over the people with the assistance of government should change.

Malaya being underdeveloped there is a limit to the extent our living standards can rise. We will not be able to reach the standards of living that are experienced at present by advanced industrialised countries. But there is every possibility that the present standards could be considerably improved, provided there is a sharing of responsibility by the employers and employees. If we look into the cash wages obtained in 1946 and

compare them with the cash wages that are now available we notice that the cash wages have gone up three to four times. But at the same time for purchasing power of a dollar has also gone down. Commodities that you could buy for a dollar then, cannot be obtained for the same amount of money now. Therefore, there is room for both the trade unions and employers to sit and think about. In the fight to preserve the country for democracy, trade unions, enlightened employers and the government stand together. In increasing production the trade unions and employers are partners. If you want the people to produce more, first, they must have a minimum standard of living and secondly, they must be compensated for the extra production. Therefore, a minimum wage plus an incentive scheme becomes imperative. This idea has been accepted by the employers and the employees in the rubber industry. We are watching very carefully how this idea grows up. If it is successful, it will be something to be adopted by other industries too.

Employers often argue that what the trade unions are trying to do is to achieve more and more wages for less and less work. It is not true. But what is true is that the trade unions will never encourage slogging. But as long as they cooperate with the employer in seeing that the members do an honest day's work, I think it is more than enough. The whole world is now crying for more and more leisure and why should Malayan employers grumble if the Malayan workers also feel the same way?

If the employers could give facilities for sports, libraries and light entertainment like Cinema and Drama on workplaces, I am inclined to think that there will be better production and better turnout of work.

GENERAL OBSERVATION ON THE FIELD OF LABOUR

A democratic trade union movement is a great asset to Malaya. But it must be a movement with strength and dignity. It should not be subjugated to any political party or parties. It must be free to offer compliments when occasions arise. It is towards this end that the last delegates' conference of the Malayan Trades Union Congress decided that they would not contest the coming elections. With more and more political education it is only natural that majority of the workers will think in terms of supporting a party or parties that have aspirations similar to those of the trade union movement. At present members belong to different political parties. This was amply considered when that resolution for non-interference in politics was voted on. But all over

the world trade unions generally have seen eye to eye with parties with strong liberal or socialist views. At the same time the TUC has always kept its independence. Certain parties with socialist views when they come into power, close one eye to certain election promises. Unless the TUC is independent it will never be able to criticise the government and fight for right of the workers. Let us argue, say 90% of the workers are members in their own individual capacity, of a particular political party with socialist views. When such a party comes into power and tends to ignore the views of Trade Unions the TUC functioning as a trade union body should be able to criticise the attitude of the government. That is why we always say that the independence of the trade union movement should be preserved. There should not be any patronage even by a socialist government. One should not forget that a government in its other capacity is also an employer and the trade union movement should not be under pressure from the new type of employer. But one could argue that the sphere of disagreements between the party that preaches socialism and the Trade Union Congress will be less than between a party that is conservative and the TUC. TUC is worthy of its name only if it always fights to preserve its independence. This must be done at all cost. The Malayan TUC can do very much as a third force operating between the party in power and the opposition.

The TUC should continue vigorously to organise the workers. A new committee has been appointed known as 'Three Year Programme Committee' which is investigating into the various problems that the trade union movement is facing at present. The trade union movement is non-communal; perhaps the only large group in Malaya that is non-communal at present. This character of the trade union movement must be maintained and every endeavour made to sustain it. As more and more areas are being declared as white areas, there will be more and more workers joining the movement. Because of the emergency and various other difficulties many have been keeping shy of the movement. That picture is now gradually changing.

In the coming years the trade union movement will be playing a much greater role than at present. The TUC has been sending its leaders abroad for training. Greater stress is now being put on education and training. That is the way how it should be. If the present atmosphere of co-operation that is existing between some of the large groups of employers and some of the large groups of trade unions continues to exist, there is every reason to hope for better employee-employer

relationship in the whole country. These groups have definitely set the patterns which could be very profitably emulated by others.

In Asia there are only two alternatives: one is to turn to communism and the other is to worship socialism. This may be very unpleasant for some but this must be told very frankly. People who have been brought up in a tradition of government by parliamentary system naturally would not like to be identified with totalitarian communism. At the same time, capitalism has always been closely connected with colonialism in Asia and as such many will not be on the side of capitalism. Therefore, the only choice that is left is socialism. But socialism takes different shapes in different parts of the world; what is good for one country may not be good for the other. Nationalisation need not necessarily be the one and the only answer to bring about major economic changes. These are matters that will have to be studied carefully by qualified groups and policies adopted accordingly. But one thing is certain; that socialism will not be prepared to accept a society which has extreme poverty and extreme wealth. There must be a tilting of the balance; i.e. unlike the past, large number of people should be given opportunity to enjoy liberty, happiness and prosperity. This could be done by evolutionary process; by constitutional means. The trade union movement is the spear-head of this evolution; in fact it is the spear-head of democracy and also non-communalism. Only a firm and determined unity among the unions in Malaya can help this young nation to take giant steps towards such changes, and ultimate happiness and well-being of the majority of our people.

PART III

**POSITION OF MINORITIES IN THE
POLITICAL SYSTEM OF MALAYSIA**

Indian Minorities in Ceylon, Burma and Malaysia**

M.K. MUHAMMAD KUNHI*

From the earliest times Indians have migrated to various parts of Asia. The cultural impact of these migrations is evident even today all over Asia, particularly in Ceylon, Burma, Malaya, Indonesia and Thailand, in the form of Hindu religious influences in the day-to-day lives of the peoples of these countries and in their folklore. Moreover, in early centuries, the Indian immigrants as wealthy traders and as the men from the land of the Buddha, whose religion became dominant in that part of the world, were welcomed there. There was indeed a two way traffic, in however small a measure, as learned Buddhist scholars from all parts of Asia flocked to the ancient universities of India to study the teachings of their Master.

These migrations of the earlier centuries have, however, nothing to do with the contemporary problem of Indian settlers in Asian countries. The present problem is the aftermath of a colonial past which India shared

* Department of International and Constitutional Law, University of Madras, Madras.

** In the text of this article, the word Malaya has been used instead of Malaysia, as the events relating to Indian minorities in that country that are dealt with in the article occurred before the formation of Malaysia in 1963.

with most of Asia during the 18th and 19th centuries and the earlier part of the 20th century. During this period Indian workers, both skilled and unskilled, and Indian businessmen and financiers went to many parts of Asia (as well as to many other parts of the world, though mainly to territories within the British Commonwealth) and helped in the economic development of the territories which had come to the possession of the colonial powers.

The European capitalists had ample financial resources and they were anxious to invest them for the exploitation of the natural resources of the newly acquired territories. But labour was scarce in these territories. The local populations were unwilling and ill-equipped to do the strenuous work of clearing jungles, laying roads and planting the area with coffee, tea, rubber, etc., and later to work in these plantations under strict discipline. In the beginning the dearth of labour was met by employing slaves. But slavery was abolished in the British Empire in 1833 and in the French possessions in 1849, which threatened to be the death-knell of colonial economic activities unless alternative labour supply was found.

By then, India, a manufacturing power whose wares were prized all over the world, had been, by colonial policy, transformed into a supplier of raw materials and consumer of British finished goods, with the result that the artisans all over India were thrown out of employment. Further, the oppressive increase in the land tax, more than ten major famines between 1770 and 1900, and the various wars like the Nepal War, the Pindari War, the Maratta War, etc., had the combined effect of placing the Indian worker in an utterly miserable condition. It was at this psychological hour that the planters in the various colonies of Britain approached the Government of India and literally lured the workers with rosy pictures of their prospects in those countries in case of their migration.¹

The importation of labourers was usually followed by the spontaneous migrations of many other types of workers to man the developing industries and communication lines, and the establishment of money lending business mainly by the Indian Chettyars to finance the developments and meet the credit needs of the workers. With the introduction of representative institutions and with the rise of nationalism in these countries, and with more and more of the indigenous people coming forward to take up the work which was being done by the Indians before, tension and resentment inevitably developed.

The problem of Indian settlers is not peculiar to Asia. What makes it significant is that the problem got aggravated with the rising tide of nationalism in the Asian countries. Furthermore, while Indians in large numbers went to these countries as British subjects, with the gaining of independence, these countries have felt free to deny the Indians the legal rights that were accorded to them till then by virtue of their status as British subjects.^{1a}

Although Indians have migrated to all parts of Asia, they will be found in any significant numbers only in Ceylon, Burma and Malaya and only to these countries had they migrated, mainly as estate labourers, under British auspices. Therefore, this study is confined to these countries.

The earliest emigrations of workers were under the Indenture system—a form of semi-slavery whereby the labourers were tied to their jobs under strict discipline and appalling working conditions; and they were repatriated at the end of the period of indenture, usually three to five years.² Emigration of Indian workers to Ceylon, Burma and Malaya began, however, under different circumstances. These countries were geographically contiguous to India and were at one time or other administered from India, even as part of India.³ For Ceylon and Malaya, workers were recruited under what was known as the *Kangany* system, and for Burma under the *Maistry* system.⁴ The important feature of these systems was that the labourers were advanced money through the *Kangany* or *Maistry* at the time of recruitment, and, as a result of this advance and the cost of their transportation which was met by the recruiter, they started their life in the countries of their immigration with an initial debt, and the *Kangany* or the *Maistry* was able to exploit the labourers and could even control their domestic affairs with the result that they led a miserable life under the double exploitation of the employers and these middle men.

Indian public opinion was from the very beginning greatly concerned with the well-being of Indians abroad. This concern became more articulate and more intense soon after the First World War, in the context of India's increasing stature in the British Empire. The Indian claim was mainly for securing equal treatment for Indians in all parts of the Commonwealth and this claim was conceded by the Imperial Conference of 1921. The demand for equality was necessitated by the policy of racial discrimination against Indians in Africa. Feelings ran high in India over this discrimination. Professor L.F. Rushbrook Williams, Director of

Information to the Government of India, in his statement for 1922-23 prepared for presentation to the British Parliament said:

'It cannot be emphasised too often or too clearly that Indian opinion regards the satisfaction of its aspirations and responsible Government at home, and the equitable treatment of Indian citizens in other parts of the Commonwealth, as but two closely related aspects of the same national demand. From many points of view, indeed, it is by no means impossible that the external aspect is more important than the internal.'⁵

He also said that the problem of Indians overseas 'now ranks among the most vital of the questions with which Indian opinion is concerned. That any long continued refusal of what India regards as justice to her sons in other parts of the empire will produce reactions upon imperial solidarity needs but little proof.'⁶

Because of the vehemence with which the Indian public protested against the unequal treatment meted out to their countrymen in other parts of the Commonwealth, and because of the importance the Government of India and the British Government attached to these protests from the point of view of Imperial solidarity, the Government of India passed a very important enactment, the Indian Emigration Act of 1922, which gave full control over the emigration of unskilled labour to the two chambers of the Indian Legislature. The Act provided that emigration of unskilled labourers should not be lawful except to such territories as the Governor-General in Council may by notification specify and that such notification should be issued only with the consent of both the chambers of the Legislature. A Standing Emigration Committee of 13 members drawn from the Council of States and the Legislative Assembly was also constituted to advise the Government on matters relating to emigration.⁷

Even before the Emigration Act of 1922, the Government of India had shown a desire to protect the emigrant workers, and steps were taken in this direction.^{7a} This was no doubt mainly due to their desire to placate public opinion at home; but it was also motivated by colonial economic considerations, for, if the workers were allowed to migrate indiscriminately without any control, the rival colonial powers, who were also in need of labour to develop their territories, might compete and be able to secure their services.⁸

The Standing Emigration Committee set up under the Emigration Act of 1922, from the very beginning, evinced keen interest in the problems of Indians abroad. One of the first suggestions it made was that :

' a basic wage should be fixed for the Indian labourers which should be sufficient—

- (a) to maintain a labourer in tolerable comfort according to his standard of living, regard being had to the fact that a male may have to provide for a family, and
- (b) to allow a margin for savings, sickness and old age.'⁹

In furtherance of this recommendation of the Committee negotiations were held with the Governments of Ceylon and Malaya and certain pieces of legislation were passed and schemes introduced by those countries to ensure minimum wages to the Indian workers.¹⁰ However, soon thereafter, owing to the Great Depression during the late twenties wages had to be cut and the Government of India did not protest against such reduction necessitated by the prevailing circumstances.¹¹

Though safeguards were provided for the emigrants to Ceylon and Malaya, there was absolutely no control or safeguard as far as emigration to Burma was concerned, because Burma was till 1937 a province of India. Indeed this policy of free emigration to Burma was allowed even after the separation of Burma from India.¹²

The history of emigration of Indians to foreign countries and their settlement there can be broadly divided into three periods: (1) the period from mid-nineteenth century, when immigrations on a large scale began, to the late nineteen-twenties when the Great Depression reached its most oppressive stage, (2) the period between the Great Depression and mid-twentieth century during which a wave of nationalism swept over the Asian countries, and they finally became free, and (3) the era of Asian independence.

I. THE PERIOD FROM MID-NINETEENTH CENTURY TO THE GREAT DEPRESSION

Ceylon

In early times Ceylon was ruled by kings who mostly came from the royal houses of South India. The earliest European subjugation of the island was by the Portuguese, though effected only partially. Then came

the Dutch. The British defeated the Dutch in 1796 and the island was administered by the 'Madras Government of the East India Company'. In 1805 it was made a Crown colony, though only in 1815, when the whole of Ceylon came under British control, was the island placed under officials responsible to the Crown.¹³

People from South India migrated and settled down in Ceylon over a thousand years ago. Their descendants now numbering a million occupy the Northern and Eastern provinces. These earlier immigrants known as the Ceylon Tamils should be distinguished from the comparatively recent immigrants from India who are sometimes referred to as Indian Tamils and also as Ceylon Indians. The Indian Tamils went to Ceylon mostly as estate labour. Indeed seasonal migrations of Indian labour to Ceylon started in the fourteenth and fifteenth centuries for peeling cinnamon in the royal domains, and when the European planters later indeed labour for their estates, they imported, Indian labour as the Ceylonese Kings had done before them.¹⁴

In 1847 the Governor of Ceylon, Tannet Emerson, wrote to the Secretary of State for Colonies that 'the great object of Colonial Government should be to create a permanent and indigenous supply of labour within the island and if this is not to be effected by stimulating the inert and contented Cingalese, another expedient is still open by holding out such encouragement as may induce the Indian labourers to settle permanently in Ceylon.'¹⁵ As a result of encouragement by the Government of Ceylon, in pursuance of this policy, the Indian labourers slowly started settling down in Ceylon.

Systematic recruitment of Indian labour for plantations in Ceylon began in 1839 when 2,432 Indians were brought to Ceylon.¹⁶ Between 1843 and 1859, 9,03,557 men, women and children came over to work in Ceylon.¹⁷ Their plight in Ceylon was most miserable. Death rate among them was put at 250 per thousand, and there was only one hospital for them in Kandy, where the death rate of admitted persons was 63%.¹⁸

After the passing of the Emigration Act of 1922 by the Government of India, the Ceylon Government promulgated the Ceylon Labour Ordinance I of 1923 providing for the payment from the Emigration Fund of the cost of transportation of the labourers and of their subsistence while on journey. It was further provided that advances made to the labourers at the time of recruitment could not be recovered through any court in Ceylon.¹⁹

On the recommendation of the Standing Emigration Committee of the Indian Legislature, negotiations for the fixation of minimum wages for

the Indian labourers were successfully conducted by the Government of India with the Government of Ceylon.²⁰ The settlement arrived at as a result of these negotiations was fully accepted by the Government of Ceylon and the Indian Labour Ordinance No. 27 of 1927 was passed by the Ceylon Legislative Council to give effect to it.²¹

In 1920 the Indians in Ceylon were given one seat in the Legislative Council of 37 consisting of 10 officials and 27 non-officials, eleven of whom were elected. The Indian seat was to be filled by nomination.²² In 1923 when the Council was expanded to have 12 officials and 37 non-officials, provision was made for the nomination of two Indians to it.²³ Certain literacy and property qualifications were necessary for voting in the elections to the Council, and Indian estate workers who were mostly illiterate and without property were thereby largely disenfranchised.²⁴

As of 1930, there were 9,59,000 Indians in Ceylon.²⁵

Burma

Burma was ruled by kings till 1886 when the country was completely annexed by the British. Since then it remained a part of India till 1937 when it was separated by the Government of Burma Act of 1935. As Burma was a part of India there was no restriction whatsoever on the emigration of Indians to Burma, as noted above. Indeed it would be wrong to use the word 'emigration' to describe the movement of people from other parts of the country to Burma before 1937.

In 1838 there were only 19 Indians in Rangoon.²⁶ But from 1852 when the Irrawady was annexed it was the policy of the Government of India to encourage emigration to Burma for the purpose of colonization.²⁷ With the opening of the Suez Canal in 1869 there was a great demand in the West for Burmese rice. Therefore in order to boost the cultivation of rice, strenuous efforts were made to attract Indians, first as agriculturists and subsequently as labourers. The first to settle down in Burma was a class of Zamindars from Bihar who were given land grants in 1874.²⁸ Between 1876 and 1878, 15,000 Indians came to Burma as free settlers. In 1880, about 40,000 were assisted to migrate, and in 1883-84, about 83,000 were assisted. Besides, shipping companies bringing Indian labourers were given subsidies, and these companies appointed their agents throughout India for canvassing business.²⁹

Though Indians went to Burma in the wake of the expansion of rice cultivation, they were not engaged mainly in agriculture.³⁰ Many of them

were engaged in trade. They also monopolized the subordinate posts in administration. While at first they came as seasonal labour for agricultural operations, later they also came for non-seasonal work like running railways, harbours, river shipping, mills, oilfields, mines and other industrial establishments as they were set up. Also, almost all the menial labourers like sweepers, gardeners, dock labourers, rickshawpullers, barbers, table boys, etc., were Indians.³¹

Side by side with the migrations of agriculturists and labourers, the Chettyars from South India (as also Sikhs, Gujaratis, Marwaris, etc., from other parts of India) established money-lending business in Burma. The first Chettyars settled down in Moulmien in 1850. Soon business was established in other parts of the country. In 1923, the Nattukkotai Chettyars Association was formed with 1498 money-lending firms started by them in Burma.³²

The problem of the alienation of land by agriculturists to non-agriculturists, which was later to assume gigantic proportions during the Great Depression with the Chettyars coming into the ownership of large areas of land, had its beginning in the mid-nineteenth century. Indeed the problem was born simultaneously with the beginning of the expansion of rice cultivation in Burma. The main reason for this land alienation was the breakup of the Burmese traditional economy under the impact of an export economy. Traditionally the Burmese economy was not organized on a cash basis, and the Burmans had little use for liquid cash. But the rapid expansion of rice cultivation demolished the whole social set-up with the result that the people began spending on many new wants, and soon their rate of spending exceeded their income resulting in loans and mortgages. As a consequence, the pattern of agriculture changed from that of a pioneering community owning and working on its land to agriculture on farms mortgaged to the money lenders. Then it became estate agriculture either employing labour for wages or land being leased out to tenants.³³ The peculiar land tenure system of Burma also encouraged alienation of land.³⁴

Successive attempts to ameliorate by legislation the lot of the tenants from 1883 onwards and similar attempts from 1891 onwards to halt the alienation of land failed as the proposed measures could not become law because of the opposition from vested interests.³⁵ Co-operatives organized in 1910 as an alternative to Chettyar money-lending could meet only a fraction of the credit needs,³⁶ and even in the limited field in which it operated, the co-operative movement was a failure.³⁷

World War I caused the first major disaster to Burma's economy. The shortage of shipping during the war hit exports resulting in serious unemployment. Money-lenders called in their credits and credits from co-operatives were unobtainable. While the price of rice fell the prices of everything else went up and alienation of land increased alarmingly. By 1920 high costs had retarded the pace of expansion, and many European plantations had been closed down. One of the results of this economic crisis was that the Burmese began to compete with the Indian workers.³⁸

Malaya

The Straits Settlements (comprising of Singapore, Penang and Malacca) were used as a dumping colony for Indian convicts first by the East India Company and then by the Government of India until 1873. At first the Settlements were combined to form a Presidency of India. Later however, in 1829, they were demoted to the status of an appendage to the Government of Bengal until 1851 when they were again transferred to the control of the Government of India. In 1867 the Settlements were again removed from the control of the Government of India and made a Crown colony.³⁹ The rest of Malaya was ruled by Sultans. But from 1873 onwards the British Government started negotiations with the Sultans and all of them ultimately came under British protection.⁴⁰

Emigration of Indian workers to Malaya (i.e., Straits Settlements) began in the 1830s as indentured labour.⁴¹ Tamil and Telugu workers were brought in this period for coffee and sugar plantations.⁴²

Act XIII of 1864 of the Government of India prohibited emigration to the Straits Settlements, but it was not applicable to the rest of Malaya. However, on representation from the Governor of the Straits Settlements, the British Government induced the Government of India to permit emigration, and accordingly from 1872 onwards emigration was allowed. In 1889 a recruitment depot was opened in Negapatnam. On further representation from the Government of the Straits Settlements, all restrictions on emigration to the colony were removed in 1897.⁴³

In 1907 an Indian Immigration Fund was established by means of an assessment on the employers of Indian labour. The Fund was utilised for meeting payments towards transportation, feeding during transit, medical aid, repatriation, etc. of the Indian workers. With the establishment of the Fund the Indian worker was enabled to start life in Malaya without an initial debt unlike his counterpart in Ceylon or Burma. Provision was also made for protecting the labourers against

coercion at the time of recruitment by securing their production before the village officers and the emigration officers who were to satisfy themselves that the workers were not recruited against their will. In Malaya they were protected against exploitation and harsh working conditions by the Superintendent of Indian Immigration at Penang who conducted routine inspections of the places of their employment. Later, on representation, the Government of India exempted the Straits Settlements and the Federated Malay States from some of the provisions of the Emigration Act of 1922 like minimum wages, a sex ratio of at least 2 women for 3 men etc. But simultaneously an Agent of the Government of India was appointed and stationed at Kuala Lumpur to look after the interests of the Indian workers.⁴⁴

On the recommendations of the Standing Emigration Committee of the Indian Legislature for the fixation of minimum wages for the emigrant labour, negotiations were conducted between India and Malaya in 1926 and 1927. Rates were fixed for some areas in Malaya and the Government of India accepted the rates as 'fair and reasonable'.⁴⁵

As of 1930, there were 7,00,000 Indians in Malaya.⁴⁶

II. THE PERIOD FROM THE GREAT DEPRESSION TO THE MID-TWENTIETH CENTURY

It was economic forces that necessitated the emigrations of Indian labourers to Ceylon, Burma and Malaya, and changing economic conditions also determined their position in those countries.

During the period of economic expansion Ceylon's economy was transformed from one based on primitive subsistence agriculture and exploitation of forest resources into a prosperous plantation economy.⁴⁷ As the Jackson Commission in its report published in 1938 observed, 'the immigrant workers made possible an economic and general advance which could not have taken place without them.'⁴⁸ Burma starting from subsistence cultivation of rice, the export of which was indeed forbidden in view of the low level of production⁴⁹, became the largest exporter of rice, the area under rice cultivation increasing from 1.7 million acres in 1866 to 12.8 million in 1940, and, as Dobby observes, this expansion would not have been possible but for the Indian labourers.⁵⁰ In Malaya rubber and tin were the instruments of prosperity, and labour, particularly for the rubber plantations, had to be entirely imported.⁵¹

During the Great Depression of 1928-30 the economies of all these countries, which were based on exports, were affected and the Indian labourer, who was most eagerly sought after during the period of economic expansion and prosperity, was no longer a welcome immigrant. Side by side with the economic forces, political, social and historical forces were also at work with the introduction of representative institutions and the rise of nationalism in these countries, and these had an impact on the position of Indians in these countries.

Ceylon

With the prices falling and the economy dislocated during the Great Depression, unemployment was widespread in Ceylon. A Committee appointed by the Labour Minister reported that the bulk of those affected were Indian estate labourers.⁵²

At first the minimum wages offered to the Indian workers were unaltered, but attempts were made to meet the situation by obtaining the consent of the labourers to a reduction in the length of time for which work was offered. They were also encouraged to go back to India. The Government of India was kept fully informed of these developments by its Agent in Ceylon 'and was satisfied that in the circumstances Indian labour in Ceylon were adequately safeguarded by the introduction of a special repatriation scheme.'^{52a} Under the scheme, payments were to be made to the Indian workers who wanted to go back to India out of the Immigration Fund. All fresh recruitments for rubber estates were stopped.⁵³ At first the estates proposed a reduction of wages by 5, 4 and 3 per cent respectively for a man, woman and child,⁵⁴ but later they proposed a general 20% reduction. After prolonged discussions between the Government of India and the Government of Ceylon, the former agreed to the reduction of wages in the estates of the Low Country and the Middle Country 'in harmony with the estimated fall in the cost of living.'⁵⁵ As the Depression continued unabated, Ceylon at the end of 1932 requested a further cut in wages and this was 'reluctantly agreed to by the Government of India'.⁵⁶ However, the situation soon improved and by 1934 recruitment for Ceylon estates was going on briskly in south India.⁵⁷

During 1928, 93,596 Indians came back to India from Ceylon as against 83,858 who left India for Ceylon, and in 1929, 1,01,228 came back as against 58,362 who left India.⁵⁸ The number of workers repatriated from Ceylon in 1928, 1929, 1930 and 1931 were 3,501, 3,212, 7,472 and 10,705 respectively.⁵⁹

In 1928 when the Great Depression was entering its most oppressive phase, the Donoughmore Commission, which was appointed to make recommendations for a new Constitution of Ceylon, made its report. The Commission recommended *inter alia* that: (1) franchise may be extended to all males above 21 years and females above 30, and (2) the existing conditions for franchise, like possession of minimum property, income, literacy, etc. may be discontinued, and only those may be excluded from franchise who were not resident in Ceylon for five years and not resident in the constituency for 6 out of the 18 months preceding the preparation of the electoral rolls.⁶⁰

There was a big controversy over the Commission's recommendations, and finally, the Ceylon Legislative Council passed a resolution accepting the Donoughmore proposals with the following modifications: *viz.*, that (1) women also should be given franchise at the age of 21, and (2) every voter should be able to read and write English, Sinhalese or Tamil.⁶¹ However, the Governor of Ceylon differed from both the Donoughmore Commission and the Legislative Council, and recommended that instead of residence which was to be the test for franchise under the Donoughmore proposals, domicile be made the criterion. As far as the undomiciled were concerned, they were to be given two alternatives. Either they should comply with the property-*cum*-literacy qualifications as under the old constitution, or produce a certificate of Permanent Settlement granted by a duly authorized officer, the conditions for the issue of the certificate being that: (1) they should produce satisfactory proof of five years' residence in the island, (2) they should make a duly attested declaration that they were permanently settled in the island, or were residing in the island with the intention of permanently settling therein, and (3) they should make a further declaration that they would renounce any claim to any special protection by any Government, or to any statutory rights or privileges or exemptions to which the residents of other races were not entitled.⁶²

These recommendations of the Governor Sir Herbert Stanley, made on pressure from the Sinhalese, were clearly aimed against the Indians, and therefore Indians both in Ceylon and in India opposed them, and the Government of India impressed upon the Colonial Office the need to reject the Governor's recommendations. Finally, however, the British Government in June 1930 agreed to the main outline of the Governor's scheme with two important modifications:

- (1) It shall not be necessary for the applicants for certificates of Permanent Settlement to formally renounce protection by any

- other government, or to renounce any statutory rights or privileges, and
- (2) laws safeguarding Indian interests shall not be repealed or amended to their detriment, and the powers and privileges of the Agent of the Government of India shall not be curtailed. Any Bill intended for the above purposes shall not receive the assent of the Governor without the prior permission of the Secretary of State.⁶³

The new Constitution came into operation in 1931. Many Indians were registered as voters on the basis of their domicile. An Indian was regarded as domiciled in Ceylon if he could produce proof of five years' residence in Ceylon and of his intention to reside there indefinitely.⁶⁴ Indeed the number of Indian voters increased by 700 per cent to 1,00,000;⁶⁵ by 1939, 2,25,000 Indians in Ceylon were registered as voters, but in 1943 the rolls of voters were strictly revised bringing down the number to 1,68,000.^{65a}

While on the one hand Ceylon, in the political field, attempted to deprive Indians of their voting rights, on the other, in the economic field too, discriminatory legislation was being passed to reserve certain economic rights to the 'Ceylonese' only, the term being defined as a person domiciled in Ceylon with a Ceylonese domicile of origin. In 1935, the Land Development Ordinance was promulgated and it was later amended in 1938. The Ordinance excluded any one other than a 'Ceylonese' from Crown lands. In 1940 an Ordinance prohibited the taking away of fish caught in Ceylonese waters by any one other than a 'Ceylonese' without a licence. In 1942, the Omnibus Service Licensing Ordinance made it compulsory that in the case of road transport services, 85% of the share money shall be contributed by the 'Ceylonese'.⁶⁶ Ceylon was also going ahead with immigration laws discriminatory against the Indians.^{66a}

As the Government of Ceylon was trying by every means to send back to India as many Indians as possible, the planters were indeed faced with an acute shortage of labour. In 1937, they found there was a shortage of 20,000 estate workers in Ceylon and, on their insistent demand, the Government of Ceylon permitted the planters to recruit 5,000 labourers from India. But the Government of India limited assisted passage only to persons of non-emigrant status (i.e. those returning to Ceylon for a second time) and their close relatives.⁶⁷

Though the Jackson Commission appointed 'to enquire into and report generally on the immigration of workers', in its report published in 1938, absolved the Indian immigrants of the charge of being the cause of unemployment in Ceylon,⁶⁸ a scheme was formulated in 1939 for the compulsory retirement of daily paid workers in Government employment, and over 2,500 Indian daily paid workers retired under the scheme.⁶⁹ Though Pandit Jawaharlal Nehru, then the President of the Indian National Congress, visited Ceylon in an effort to secure the withdrawal of the scheme, the leaders of Ceylon were unwilling to do so and the scheme was not withdrawn.⁷⁰

The Government of India retaliated against the measure by banning the emigration of Indian unskilled labour to Ceylon with effect from August 1, 1939, unless exempted by a special order.⁷¹ Thereupon, Ceylon suggested that talks be held between the two countries. In November 1940, therefore, a delegation from Ceylon visited New Delhi 'to discuss in informal conversations with representatives of the Government of India, matters outstanding between the two countries and to explore and prepare the ground for formal negotiations later on.'⁷²

At the talks it was decided that the question of the status of Indians resident in Ceylon be taken up first, and, 'in the event of agreement being reached upon the principles that should regulate the status of resident Indians, the way should have been opened towards a satisfactory understanding upon other questions, such as the control of immigration into Ceylon and trade relations between the two countries.'⁷³ The Ceylon delegation, however, proceeded from the assumption that the peculiar circumstances of Ceylon must be taken into consideration, and that she could not absorb all the Indians in the island.⁷⁴ Therefore, they approached the subject from the point of view of reducing the Indian population in Ceylon,⁷⁵ and proposed that those with a domicile of origin only should be considered Ceylonese, while the others were to be extended the privileges normally accorded to British subjects, and among them those with a domicile of choice should be given the State Council franchise, but not the economic rights of the Ceylonese under the Land Development Scheme etc.⁷⁶

The Indian delegation was prepared to concede that persons with a Ceylonese domicile of choice should not claim the right to appointment under the Ceylon Government or under quasi-governmental bodies, and 'should not participate in the benefits of the Land Development

Ordinance so far as land already mapped out and reserved for Ceylonese are concerned, but should have full equality as regards land which might be so reserved in future.⁷⁷ Subject to these concessions, the Indian delegation maintained that 'on the question of status, the claim of Indians to equality of citizenship should be based upon the same principle, the application of which they had consistently urged in respect of other countries of the British Commonwealth of Nations where Indians have settled, namely, that full citizenship rights, covering the whole political and economic field, could legitimately be claimed by all Indians who could establish proof of a prescribed period of residence and of a permanent interest in the country.'⁷⁸ They therefore proposed citizenship for Indians in Ceylon on the basis of residence for five years and a permanent interest in the island, 'both tests to be satisfied by some set of easily ascertainable facts'.⁷⁹

The Ceylon delegation was not prepared to accept these very reasonable proposals. Indeed its leader admitted that they wanted not only the existing restrictions on Indians to continue but also to impose more restrictions in future,⁸⁰ and they were not prepared 'to make any commitment, beyond an expression of willingness to consult the Government of India, that would hamper their freedom to impose restrictions on Indian employment in favour of the Ceylonese.'⁸¹ Therefore, it became clear to the Indian delegation that 'not only persons who would be eligible for the Ceylon domicile of choice under the proposals made by the Ceylon delegates, but even their children might in fact have little opportunity of obtaining a domicile of origin as their parents might have to leave Ceylon under economic pressure and restrictions and thereby lose their domicile of choice.'⁸² The Indian delegation refused to modify India's general approach to the question of Indians overseas in the case of Ceylon, in view of her 'special circumstances' as explained by the Ceylon delegation.⁸³ Ceylon, however, insisted that these 'special circumstances' should be taken into consideration and that the Indian population in Ceylon should be substantially reduced, and the talks broke down.

The Indian Legislative Assembly overwhelmingly supported the stand taken by the Indian delegation.⁸⁴

After the failure of the exploratory talks, the Ceylon Ministers went ahead with enactments discriminatory against the Indians, and Bills were introduced in the State Council for this purpose. But the Governor of Ceylon promptly warned the Ministers that he would be bound to

withhold assent to the Bills if passed by the Council.⁸⁵ This had the effect of bringing the Ministers to a 'reasonable frame of mind', as Mr. M.S. Aney, the Member for Indians Overseas in the Indian Government, put it, and the Governor succeeded in persuading them to resume negotiations with the Government of India. In the resumed talks held in September 1941 agreements were reached on all points discussed, and the delegations made a joint report for the consideration of the two Governments.⁸⁶

The Agreement contained in the Joint Report provided, *inter alia*, for the following:

1. *Immigration* : The Indian Delegation proposed

- (1) that permits for immigration be in the form of an endorsement on passports,
- (2) that the Minister in charge of Immigration be advised by an Immigration Board in which Indians were represented,
- (3) that proposals for immigration quotas be referred to the Government of India for comment,
- (4) that the wives and minor children of the immigrants be allowed entry,
- (5) that discretion to refuse entry be limited to those 'employed in position of confidence or for specialised work', and
- (6) that the immigration fees be reasonable.

'Subject to the drafting of a suitable formula for person covered by (5) above, the Ceylon Delegation felt there should be no difficulty in meeting the Indian Delegation's wishes on the points raised.'

2. *Re-entry* : Persons possessing a domicile of origin, a domicile of choice or a certificate of Permanent Settlement and their wives and minor children were to be allowed re-entry into Ceylon. But, except in the case of persons possessing a domicile of origin, the right of re-entry was to be lost after a continuous absence from Ceylon for one year.

3. *Franchise*: In the case of Indians already in Ceylon, for the purpose of franchise, birth in Ceylon of parents either or both of whom were born in Ceylon was sufficient for registration as possessing a domicile of origin. Registration as possessing a domicile of choice was to be made only on the production of proof by the applicant that he had satisfied a Court that after having had

five years' residence in Ceylon he had acquired a domicile of choice according to the rules of English Law regarding the acquisition of domicile of choice.

New entrants were to be of two categories : 'A' class entrants and 'B' class entrants. 'A' class entrants were to be entitled to be registered as voters on satisfying certain literacy and property qualifications. But after five years' residence in Ceylon they could also register as possessing a domicile of choice, if they satisfied a Court that they had acquired such a domicile in Ceylon. 'B' class entrants could not acquire a domicile of choice and could register as voters only on satisfying the literacy and property qualifications.

For the issue of the certificates of Permanent Settlement the following were to be the qualifications :

- (a) A declaration by the applicant that he intended to reside in Ceylon indefinitely,
- (b) proof of means of livelihood,
- (c) if married, proof that his wife and minor children have ordinarily resided with him,
- (d) proof of seven years' residence in Ceylon in the case of married persons, and ten years' residence in the case of others, and
- (e) continued absence from Ceylon should not have exceeded one year.

A child of a holder of a certificate was also to be entitled to a certificate of Permanent Settlement, if the child was born and bred in Ceylon, or if he came to Ceylon before the age of fourteen years and applied for the certificate within three years of attaining majority.

4. *Status* : The Ceylon Government undertook in *future legislation* not to discriminate between the Indians possessing a domicile of origin, a domicile of choice or a certificate of Permanent Settlement and the permanent populations of Ceylon, and between a child of a holder of a certificate of Permanent Settlement and others if the child was ordinarily resident in Ceylon and had identified himself with the permanent population. The Government of India agreed that the *existing legislations* discriminatory against Indians need not be amended, and, except in the case of persons possessing a domicile of origin, Indians should not claim appointments in the

Government departments or under quasi-government bodies, and should not participate in the benefits of the Land Development Ordinance.

The Indian Legislative Assembly did not view the Joint Report favourably.⁸⁷ The main reason for this was the fact that the Indian Delegation had climbed down a little from its original position at the Exploratory Talks. It made a major concession in accepting Ceylon's classification of Indians, for the purpose of granting them rights, into persons possessing a domicile of origin, a domicile of choice, and a certificate of Permanent Settlement, thereby abandoning the consistent stand all along taken by India that Indians who had resided in any other part of the Commonwealth for a specified period and who had a permanent interest in the country where they resided must have complete equality with the indigenous inhabitants in all matters. At the Exploratory Talks India had refused to deviate from her general approach to the question of Indians abroad, and to show special concessions to Ceylon in view of her 'special circumstances'. Also the procedure prescribed for acquiring a domicile of choice by proving it to the satisfaction of a court of law was most cumbersome and practically useless for the bulk of the Indian estate workers and other low paid employees who could not be expected to find the money and the time for agitating their claims before a court of law. However, Indian concessions on *existing discriminatory legislations* were not new ones. They were indeed offered at the Exploratory Talks, though on a much more restricted scale. As a major achievement, the Indian delegation secured from Ceylon an undertaking that in *future legislations* no discrimination would be made between Indians and others. At the Exploratory Talks Ceylon had declined to give any such undertaking.

As Mr. Aney said, 'when you have to consider the question of agreement, it is always a matter of compromise, meaning thereby that the two parties have come together with a view to come to a mutual understanding and in that attempt have to approach each other in a spirit of give and take.'⁸⁸ But the mood of the Assembly, barely 13 days after it had thrown out the Draft Indo-Burma Agreement after an explosive debate, was not for compromise.⁸⁹ Indeed Mr. Aney had placed on the table of the House the Indo-Ceylon Joint Report and the Indo-Burma Draft Agreement together.⁹⁰ The fact that both the agreements had been negotiated by Sir Girija Shankar Bajpai, Secretary to the Department of

Education, Health and Lands, who was accused of exceeding his authority while negotiating with Burma, also seems to have influenced the members of the Assembly. In view of the prevailing mood of the Assembly, the Government adopted a rather defensive posture by neither endorsing nor opposing the Agreement. Mr. Aney said that the Government 'on a matter like this are really anxious to know as to what are the exact modifications which the people, in the interest of Indians in Ceylon, will like to have before these proposals are embodied in the form of an agreement.'⁹¹ He also said that the Government 'would like to hear the views of Honourable Members of this House and the Government of India have formed no opinion at all on the point.'⁹² While replying to the debate also, Mr. Aney contented himself with merely summarising the opinions expressed by the members and said the Government had an open mind on the question. The Government members did not vote on the resolutions before the House regarding the Joint Report. Finally the Assembly adopted the following resolution :

'That this Assembly after having taken into consideration the Joint Report of the Delegations of the Governments of India and Ceylon, is of the opinion :

- (i) that the Indians in Ceylon on the prescribed date of agreement and those who have been resident in Ceylon within a specified period before the date of the Agreement should have freedom of entry into Ceylon and no regional and occupational restrictions should be imposed upon them and that they should be entitled to full rights of citizenship on completion of the prescribed period;
- (ii) that, for the future, provisions . . . (should) be made for entry and occupations so that the trade interests of Indians are safeguard and that unskilled labourers permitted to emigrate. . . (should) be assured of freedom of movement and choice of employment and opportunity to acquire full citizenship rights.'⁹³

In the meantime, Ceylon was going ahead with legislation discriminatory to Indians. Thereupon the Government of India suggested in February 1942 that during the pendency of the War the *Status quo* be maintained and that if Ceylon was prepared to do so, India would consider relaxation of the ban on immigration to Ceylon to enable her to secure labour for the war effort. Ceylon was indeed at that time badly in

need of labour. Still she replied that she did not want the ban lifted. Later the Government of India partially lifted the ban in September 1942 to allow Indians who were already in Ceylon but who had come to India on short visits, to return to Ceylon.^{93a} The government of Ceylon protested at this and insisted that they wanted ban to continue, but in December 1942 they sent an urgent telegram to the Government of India requesting despatch of labourers from India. The telegram inquired whether India would agree to a special recruitment of labour on a temporary basis for the period of the war on condition that they would be repatriated at the end of the war or other stipulated period, and their wages and other conditions of service would be the same as those of other Indian labourers. The Government of India refused to agree to the condition regarding repatriation, and forwarded a draft of fundamental principles to be first agreed to before recruitment of labourers was allowed. The Ceylon Government rejected the proposals contained in the draft and the matter was allowed to rest there for a long time. The Joint Report was abandoned by both the parties.⁹⁴

What clearly emerges from the correspondence between India and Ceylon in 1942 and 1943 is that Ceylon badly wanted labourers from India, but was not prepared to confer citizenship or other rights on them. As Mr. S. W. R. D. Bandaranayake himself conceded in 1955 (when he was in the Opposition), on the one hand, for economic reasons, Ceylon wanted Indians to work in the estates, and on the other, from the political point of view, she did not want them. It was an attempt, in Mr. Bandaranayake's own words, to eat the cake and have it.^{94a}

Burma

The Great Depression had disastrous consequences for Burma whose economy was entirely dependent on the export of rice. Indeed, as we have seen, Burma's difficulties had started with the break of the First World War in 1914 and the consequent shortage of shipping. During the Depression the price of rice fell sharply and by 1930 it had come down to Rs. 50 per hundred baskets, from the original price of Rs. 200.⁹⁵ The dislocation of the Burmese economy had two rather unconnected implications for the Indians. On the one hand it threw many Indian workers out of employment leading to competition between Indian and Burmese workers.⁹⁶ On the other hand, it led to the Chettyar moneylenders withdrawing credits and foreclosing mortgages, and in the process, two million acres of land passed to them between 1929 and 1939.⁹⁷

In 1930, Chettyars occupied,⁹⁸ in Lower Burma, only 5,70,000 acres of land which represented 16% of all lands occupied by non-agriculturists and 6% of the total occupied area. By 1937 they were occupying 24,46,000 acres, which was 50% of the land occupied by non-agriculturists and 25% of the total occupied area. During the period the total occupied area increased by less than half a million acres, or by a little over 3%, from 93,49,000 acres to 96,50,000 acres.⁹⁹

The first anti-Indian riots of 1930 were the direct result of the competition between the Burmese and Indian workers and the apprehensions of the Burmese majority over the dominant economic position of the Indian minority. That Burma was then a province of India, though maintained as a separate entity, added to the intensity of feelings.¹⁰⁰ In the riots about 100 persons were killed and about 1,000 injured, almost all of them Indians. Unofficial estimates put the killed at 300 to 500. No compensation was paid for the loss of life or property and no Burman was prosecuted except two for fighting the police.¹⁰¹

The immediate cause of the riots was a strike by the Indian dockyard labourers in Rangoon on May 8, 1930. Burmese unskilled workers were brought in as replacements. By May 26, reconciliation was arrived at between the strikers and the stevedores and the replacement labourers were relieved. But as the regular Indian labourers were returning, clashes broke out between the Indian and the Burmese workers.¹⁰² An inquiry Committee, which was, however, boycotted by the Indians, found that the police strength was inadequate to meet the situation.¹⁰³

Indians were attacked in other parts of Burma also. In the Saya San Rebellion in 1930, which was directed against the Chinese, many Indians were also caught and murdered and in 1931, Indians were attacked in Pegu Toungoo.¹⁰⁴

As a result of the riots immigration of Indians decreased. Between 1926 and 1929 immigration had exceeded emigration by 4,00,000 each year. But in 1930 and 1931 immigration was less by 30,000 and 57,000 respectively. However, from 1933 onwards immigration was stabilized at 2,50,000 a year.¹⁰⁵

The second and much more serious anti-Indian riots of 1938 started under different circumstances. Firstly, the riots occurred a year after Burma was separated from the rest of India,¹⁰⁶ and secondly, the immediate provocation for the riots was the publication of a book which was said to contain passages critical of Buddhism.

The book in question was published by a Burmese Muslim, Shwe Hpi, in 1931. At that time it had attracted little notice, but when a new edition was published in 1937 it immediately created an explosive situation.¹⁰⁷ The vernacular press in Burma hostile to the Government exploited it 'in a deliberate effort to incite public hysteria and violence'.¹⁰⁸ On July 26, 1938, violence erupted when a procession organized by the All Burma Young Pongyis Association was stopped from proceeding to the Indian Bazar, and on July 27 the situation got entirely out of control, and the riots spread outside Rangoon.¹⁰⁹ The attacks first started on Burmese Muslims, then on Indian Muslims, finally ending in riots against Indians.¹¹⁰

The police were caught unprepared and also had inadequate strength to meet the situation. 'The spirit of the rioters was boldly anti-government, but they used the defenceless Indians as a scapegoat target.'¹¹¹ One hundred and ninety-two Indians were estimated killed and 878 injured. Indian property worth Rupees 18 million was damaged. A further outbreak of riots in September was put down after the promulgation of the Rangoon Emergency Security Act by the Governor. Looting of Indian shops was reported in 1939 also.¹¹²

The Committee which inquired into the causes of the riots reported that they were incited by the press and by the *Pongyis* (i.e. monks); but the Committee also attributed the virulent anti-Indian feelings to the economic unrest rooted in the unsolved land tenure problem caused by the landlordism and money lending operations of Indian residents, as well as to the competition from the immigrant Indian labour.¹¹³ The Burmese public generally sheltered the rioters and village headmen invariably refused protection to Indians, or demanded money for giving protection, and in some instances they themselves led the rioters.¹¹⁴ Only 1,800 of the 4,300 arrested were tried and the Government instructed the courts to punish only 'flagrant' crimes.¹¹⁵ The Riot Inquiry Committee observed: 'Indian victims. . .ask themselves whether they can be safe hereafter in a country where they may be killed. . .with impunity.'¹¹⁶

The Indian Legislature discussed the riots in an atmosphere charged with emotion.¹¹⁷ Sir Abdul Halim Guznavi moving an adjournment motion in the Assembly demanded that the military forces be sent to Burma.¹¹⁸ Mr. Ananthasayanam Ayyangar seconding the motion advocated economic sanctions against Burma.¹¹⁹ Sir Girija Shanker Bajpai (Secretary for Education, Health and Lands) tried to play down the effect of the riots. He said that though the religious pamphlet might have been the immediate cause of the riots, 'there are more fundamental

causes, such as the question of Indian immigration into Burma, the question of holding of land by Indians in Burma, the question of marriages between Indians and Burmans'. He said the problem could be solved only by the Burmese Government and 'even more, by the Indian community in Burma and the Burman community in Burma coming together once more in the friendly spirit which, before 1922, characterised their relations.'¹²⁰ Replying to the debate Kunwar Sir Jagdish Prasad (Member for Education, Health and Lands) warned Burma that atrocities committed against the Indians could not go unchallenged,¹²¹ and the Assembly adopted the motion for adjournment without a division.

One of the direct results of the 1938 riots was the Immigration Agreement concluded between India and Burma in 1941.¹²²

The Agreement was based upon two main principles: 'firstly, that Burma has, subject to the provisions of the Government of India Act, 1935, the right to determine the composition of her own population, and secondly, that Indians who have wholly identified themselves with the interests of Burma should enjoy the same rights as members of the permanent population.'¹²³

The Agreement provided *inter alia*:^{123a}

1. *Indians already in Burma*: 'Indians who are born and bred in Burma, have made Burma their permanent home and regard their future and the future of their families as bound up with its interests are entitled to be regarded as having established a claim, if they wish to make it, to a Burma Domicile....' No restrictions were to be placed on acquisition of domicile on Indians lawfully resident in Burma except those residing in Burma on a permit for a specified period. Those who could prove a total residence in Burma of seven calendar years between July 15, 1932 and July 15, 1941 were to be termed 'privileged immigrants' and could stay in Burma indefinitely and had a right of re-entry into Burma as long as they did not absent themselves from Burma continuously for one year. Indians who were not 'privileged immigrants' could remain in Burma indefinitely but could not claim a right of re-entry if they left Burma.

2. *New Entrants to Burma*: New entrants to Burma were to possess an Indian passport, and a visa and an Immigration permit issued by Burma. The Immigration Permits were of two kinds: 'A' permits and 'B' permits. Holders of 'A' permits could stay indefinitely in Burma and could acquire a Burmese domicile, while 'B' permits entitled the holders to

reside and work for a specific period only, and they could not acquire a domicile in Burma. Issue of 'A' permits was at the discretion of the Government of Burma, and they could impose literary tests for that purpose in a language other than a language indigenous to Burma. 'B' Permits were to be issued within the limits prescribed for each year after consulting the Immigration Board which was to be constituted. Marriage or cohabitation with a Burmese woman 'established to the satisfaction of the Government of Burma' could be a ground for the cancellation of a permit or visa.¹²⁴

3. *Dependents* : Dependents of holders of 'A' and 'B' permits were to have the same status as those holders. Dependents of 'Privileged Immigrants' were to have the same status as holders of 'A' permits.

The reaction of the Indian public and press to the Agreement was very unfavourable.¹²⁵ In the Legislative Assembly four adjournment motions were sought to be moved even before the Agreement was made known.¹²⁶ Later the House debated the Agreement in a highly excited atmosphere.¹²⁷

In the debate two points stood out prominently : firstly, some of the members were, even in 1941, not reconciled to the fact of the separation of Burma from India from years previously, and, at any rate, they were not prepared to concede to Burma the right to regulate immigration of Indians into that country.¹²⁸ Secondly, many members contended that when the Government of Burma Bill was being debated in the House of Commons, the British Ministers gave assurances in Parliament that under the Act the Government of Burma would not have the right to regulate the entry of Indians, and incidently this contention was one of the grounds on which the Assembly ultimately rejected the Agreement.¹²⁹ It was also contended that the Baxter Commission, whose report was the basis for the negotiations between India and Burma, did not find that the Indian immigration was in any sense abnormal or that it created any problem in Burma.^{129a} The Agreement was also attacked on the ground that the Indian delegation did not have authority to enter into it, and that the leader of the delegation, Sir Girija Shankar Bajpai, exceeded his authority when he signed it. Except a European member, Mr. T. Chapman Mortimer, all other speakers opposed the Agreement, and most of them condemned it in strong language. Only two members, a European and an Anglo-Indian, though opposing the Agreement, appealed for moderation in language,¹³⁰ and only these two defended Sir Girija Shankar Bajpai and paid handsome compliments for his services to the Indians overseas.¹³¹

Taking into consideration the mood of the House, the Member for Indians Overseas, Mr. Aney, almost supported the contentions of most of the members of the House. He said the Government of India were aware that the Agreement had aroused 'very strong feelings and that Indian public opinion insists that it (Agreement) requires to be modified before it can be acceptable to the people of India'.¹³² He said that soon after opposition to the Agreement began to assert itself, the Government of India urged the Secretary of State that 'the Agreement will have to be revised in certain important parts, or some method will have to be devised to meet the objections.'¹³³ He said the Government Members would not vote on the resolution before the House, but promised to forward the resolution to the Secretary of State.¹³⁴ Referring to the assurances given by the British Ministers in Parliament, Mr. Aney said: 'There may or may not be a legal bar for them (Burma) to legislate. But there can be little room for doubt as regards the spirit in which the Ministers desired the powers to be exercised. . . .' Mr. Aney, however, said that in approaching a question of this kind it should be borne in mind that the agreement must be calculated to remove the apprehensions of undue economic competition by reason of Indian immigration from the minds of Burmans but that it should also secure for the Indians their legitimate rights.¹³⁵ He asserted: 'In addition to considerations of geographical proximity, cultural affinity and economic ties, the very fact that Burma was conquered by the British Government with the help of the Indians, subsequently annexed (sic) it to India as a province and administered it as an integral part of British India has created a situation with regard to Indians settled there which no legislature or Government can ignore without doing serious injustice to them'.¹³⁶ Mr. Aney conceded that perhaps Britain was right in separating Burma, but by that, he said, the Indians already settled there did not become foreigners.¹³⁷ He also conceded the right of an autonomous state in the British Commonwealth to determine the composition of its own population but, he said, this principle did not come into conflict with the demand of Indians settled in Burma to be treated as Burmans.¹³⁸

As the Government and people of India were trying to get the Agreement modified, Burma came under Japanese occupation, and the implementation of the Agreement became impossible. Negotiations were, however, continued between the Government of India and the Government of Burma in exile at Simla.¹³⁹ During the closing years of the war the Government of Burma (at Simla) prepared schemes for the

post-war reconstruction of Burma and Burma Indians were associated with the preparation of the schemes to some extent. In February 1944, a Conference was held in Simla to which Indians who had resided in Burma were invited for confidential and informal discussion. The Government of India was requested to send an observer to the Conference, but the offer was declined.¹⁴⁰

When the war broke out there were about a million Indians in Burma of whom about 4,00,000 were evacuated,¹⁴¹ leaving behind about 6,00,000. Many thousands trekked to India through the jungle and about 10,000 of them are believed to have died on the way.¹⁴² After the war some of them returned to Burma.¹⁴³

As soon as the Japanese occupied Burma they set up a civil administration under a former Premier, Dr. Ba Maw. Ba Maw's administration passed certain regulations which had adverse effects on the Indians.¹⁴⁴ One provided that only Burmans could own immovable property in Burma. Under another regulation, no company could be formed in Burma unless 60% of the capital was Burmese. Yet another regulation provided that when foreigners married Burmese women, the Burmese personal law would apply. The Japanese at first recognized Chettyar titles to land, but later they shifted their ground. By that time, as the Chettyar had fled to India, the peasants had taken over the lands, and Ba Maw promptly legalized the take-over.¹⁴⁵

During the war Indians all over South East Asia came under the authority of the Provisional Government of Azad Hind headed by Netaji Subhas Chandra Bose. This gave the Indians a measure of protection which would otherwise have been lacking.¹⁴⁶ Azad Hind was less in evidence in Burma than in the other countries of South East Asia, notably Malaya and Singapore. Nonetheless, those who co-operated with the Azad Hind were protected, and the Japanese treated them comparatively well.

Malaya

Even before the Great Depression, the Malayan economy was administered a shock by the surplus world production of rubber and the consequent fall in prices. During the Depression the price of rubber fell further from 15.6½*d.* per lb. in 1927 to 3½*d.* in February 1931.¹⁴⁷ The Government of Malaya proposed a cut in the wages of the Indian estate labourers by 20% and 'the Government of India felt that they had no reasonable ground for objecting to this, since salaries, agency fees,

director's fees, and so forth had also been reduced, and all factors engaged in the production of rubber were bearing their proportionate share in the sacrifice'. But the Government of India represented that all those who wanted to return to India be freely repatriated. All further recruitments were stopped. Malaya also proposed a wage cut for labourers in the railways, the public works departments etc.; and the Government of India 'did not feel they could oppose this proposal either'.¹⁴⁸ Between the middle of 1930 and the end of 1931, 1,30,781 Indian labourers were repatriated from Malaya.¹⁴⁹ But by 1934, there was a general improvement and Malaya was requesting India for labourers.¹⁵⁰

The economic position in Malaya, however, continued to be difficult, and wages were further cut, though the Rt. Hon. Sir V.S. Srinivasa Shastri, who was deputed in 1936 by the Government of India to inquire into the conditions of Indians in Malaya, reported that they were much better off in Malaya than in India.¹⁵¹ But wages continued to be cut. Pandit Jawaharlal Nehru paid a visit to Malaya in 1938, and he seems to have appreciated Malaya's economic difficulties.¹⁵² In the same year the Government of India prohibited immigration of unskilled labour to Malaya.¹⁵³

Chettyars in Malaya, as in Burma, lent money on the security of mortgages and during the Depression acquired ownership of land. Before the War they had come to own about 175,000 acres of rubber plantations.¹⁵⁴ But since land in Malaya was mostly reserved for the Malays, and alienation of the reserved lands to non-Malays was prohibited, the Chettyar money-lending did not have the same disastrous consequences in Malaya as in Burma.

At the outbreak of the War in South East Asia there were about 8,00,000 Indians in Malaya, and only 5,000 of them could be evacuated to India.¹⁵⁵ Some of the evacuees returned to Malaya after the War.¹⁵⁶ But, after the War, there was a rush of the Indians in Malaya to come back to India and about 18,000 were assisted to return.¹⁵⁷

Japanese occupation further hit the already tottering economy of Malaya as she was cut off from her export markets. Indian workers at first suffered from unemployment. Later many of them were forcibly recruited by the Japanese for a hazardous railway project in Thailand, which, because of the enormous number of human lives lost during its construction, has come to be known as the Death Railway Project. 85% of the labourers were Indians forcibly recruited from Malaya, and 20,825

of them were believed to have died during the construction of the railway.¹⁵⁸ The Indians were otherwise safe in Malaya. Because of the Azad Hind, they were accorded a special treatment by the Japanese, while the Chinese were hunted down to be liquidated.¹⁵⁹ The Azad Hind, the I.N.A. (Indian National Army) and the I.I.L. (Indian Independence League)¹⁶⁰ had their main field of activity in Malaya. Indeed the first step towards the formation of the I.I.L. was taken in two all-Malaya Conferences, and the Leadership for the I.I.L. came from the Malayan Indian Central Association.¹⁶¹ While the I.I.L. was dispersed throughout South East Asia, Azad Hind and the I.N.A. had their headquarters at Singapore.

III. THE POST-INDEPENDENCE PERIOD

India became independent in 1947, and Ceylon and Burma, in 1948. Malaya also practically became free in 1948, though fully so only in 1957. The Second World War and these post-war developments imposed a new dimension to the problem of Indian settlers in these countries.

What the free governments inherited was undoubtedly a complicated problem. In the case of India this was further complicated by another factor : While in Ceylon and Burma the same political leadership, which participated in the governments of the countries in a limited way before independence, continued to be at the helm of affairs, in the case of India, there was, after independence a complete break with the past at the political level, and those who headed the government after independence were not associated with the governance of the country before.¹⁶² In an issue so delicate as the question of Indians abroad, this break in continuity had a very important result, namely, that while Ceylon and Burma had definite policies in the matter, and continued implementation of those old policies even after independence, India, to begin with, had no policy at all. Indeed more than six months after independence, and one and half years after the new leadership had been associated with the governance of the country in the Interim Government, when the question was raised in the Legislative Assembly, in March 1948, both the Government and the members of the House expressed helplessness in the matter.¹⁶³

Although the Government and the country had no policy as such regarding Indians abroad, Prime Minister Nehru, at least, had definite

ideas regarding citizenship for them. He said :

'Now these Indians abroad, what are they? Are they Indian citizens? Are they going to be Indian citizens or not? If they are not, then our interest in them becomes cultural and humanitarian, not political. That interest of course remains. For instance, take Indians in Fiji or Mauritius. Are they going to retain their nationality or will they become Fiji nationals or Mauritians? The same question arises in regard to Burma and Ceylon. It is a difficult question. This House gets mixed up. It wants to treat them as Indians, and with the same breath it wants complete franchise for them in the countries where they are living. Of course, the two things do not go together. Either they get franchise as nationals of the other country, or treat them as Indians minus the franchise and ask for them the most favoured treatment given to an alien.'¹⁶⁴

To this were later added two other principles: (1) It is entirely for the Indians abroad to decide whether to remain Indian nationals or to adopt the nationality of the country where they are living,¹⁶⁵ and (2) if they adopt the nationality of the other country, then they should be treated as its citizens with all the rights of citizenship.¹⁶⁶ These principles have constituted the basis of the Indian approach in regard to franchise and citizenship for Indians abroad, and have been consistently followed, at any rate, till recently. In the matter of Indian interests abroad, the policy has been enunciated that Indians abroad 'should always give primary consideration to the interests of the people of those countries' where they reside.¹⁶⁷ But in matters like giving protection to Indian nationals abroad, securing compensation for their properties nationalized etc., the Government of India does not seem to have a consistent policy, except, perhaps that of adopting the line of least resistance by which, obviously what is primarily aimed at is the avoidance of embarrassment to the countries concerned.¹⁶⁸

Ceylon

A new constitution for Ceylon was framed between 1943 and 1946. In 1948, after the passing of the Ceylon Independence Act by the British Parliament, she became a fully independent state within the Commonwealth.^{168a}

One of the first things independent Ceylon did was to pass the Citizenship Act of 1948. The idea of domicile of origin which was earlier incorporated in the Land Development Ordinance, the Fisheries Ordinance and the Omnibus Licensing Ordinance was extended to the

Citizenship Act also. Under Section 4 of the Act a person born in Ceylon before November 15, 1948, would have the status of a citizen by descent (1) if his father was born in Ceylon, or (2) if his paternal grandfather and paternal great grandfather were born in Ceylon. A person born outside Ceylon would have citizenship by descent, if (1) his father and paternal grandfather were born in Ceylon, or (2) his paternal grandfather and paternal great grandfather were born in Ceylon. Citizenship by registration was also provided for by the Act for a small number of people under certain conditions.

The provisions of the Citizenship Act hit the Indians. The Sinhalese as a class were extended citizenship by descent without any proof of the birth in Ceylon of either themselves or their fathers and grandfathers. It was only in the case of Indians that strict proof was insisted upon. It has been pointed out that even Prime Minister D.S. Senanayake, if asked, could not give strict proof of his descent to qualify for citizenship by descent, and this was the difficulty of the persons of Indian origin too. Registration of births became compulsory in Ceylon only in 1895, and birth registers prior to 1920 were not available in many parts of the island.¹⁶⁹

In 1949 the Ceylon (Parliamentary Elections) order in Council was amended to deprive voting rights to all those who were not citizens, and the number of Indians having voting rights fell from 1,65,000 in 1949 to 8,500 in 1950.¹⁷⁰ In the same year however, another Act, the Indian and Pakistani Residents (Citizenship) Act was passed by the Ceylon Parliament. It was claimed that the purpose of the Act was to enable those persons, who were not able to acquire citizenship under the Citizenship Act of 1948, to become citizens by registration under the new Act. Mr. Radhakrishnan, however, rightly points out that to acquire citizenship under the new Act was no less difficult.¹⁷¹

Under the Act of 1949, to acquire citizenship by registration, the applicant, (1) must have resided in Ceylon without interruption for a minimum of seven years in the case of married persons and ten years in the case of others and this period must have been completed before January 1, 1946, (2) he must have financial stability, (3) he must be free from any legal disability or incapacity, and (4) he must clearly understand the statutory consequences of his registration as a citizen. Not only were the qualifications prescribed under the Act, particularly the residence qualifications, very onerous but also the administrative authorities, as Courts in Ceylon observed on various occasions, wilfully rejected large number of citizenship applications on the most frivolous

grounds.^{171a} It may be pointed out further that citizenship by registration did not confer the same status as citizenship by descent. Laws like the Land Development Ordinance still gave special privileges to persons possessing a Ceylon domicile of origin. Indeed the existence of these discriminatory laws was offered by Mr. S.W.R.D. Bandaranayake as justification for the discriminatory and restrictive citizenship law.^{171b}

The Ceylon Indian Congress at first boycotted registration under the Act of 1949 on the ground that the Act discriminated against the Ceylon Indians. In 1950, however, the Congress changed its stand and about 2,37,000 applications covering 6,50,000 persons were filed just before the last date for the application, namely, August 5, 1951. By the time of the elections of 1950, only 9,000 of the applications submitted had been dealt with. Of these, as we have noted, 8,500 were enrolled on the register of voters. The request of the Ceylon Indian Congress to admit all the applicants for citizenship to the register of voters by a special ordinance was rejected by the Ceylon Government, and the efforts of the Government of India in this direction were not also successful. The Ceylon Indian Congress therefore launched a *satyagraha* in April 1952 which lasted for 142 days.¹⁷²

After protracted negotiations and correspondence, an agreement between India and Ceylon was reached in January 1954. The Agreement, popularly known as the Nehru-Kotelawala Agreement, sought to solve two problems, namely, those of citizenship and illegal immigration.¹⁷³

Citizenship

Ceylon agreed to dispose of all pending applications for citizenship within two years. All persons of Indian origin who were registered as citizens of Ceylon were to be placed on a separate register for a temporary period of ten years and during that period they were entitled to elect as many members to the House of Representatives as were determined after consultation with India. It was open to those Indians who did not register as Ceylon citizens to register as Indian citizens with the Indian High Commission if they so chose, and the Indian High Commissioner would give all facilities, and the Ceylon Government all inducements, to them for registering as Indian citizens.

Illegal Immigration

Both the Governments expressed their determination to suppress illicit immigration-traffic between the two countries. The Government of Ceylon agreed to prepare a register of all those adult residents who were

not on the electoral register. If any one was found in Ceylon, who spoke an Indian language and whose name was not included in the register, he would be presumed an illicit immigrant and deported. The Ceylon Government might proceed with the amendment of the Immigration and Emigration Act for throwing the onus of proof on the accused charged as an illegal immigrant; but the Indian High Commissioner was to be given an opportunity to satisfy himself that a *prima facie* case existed.

Certain steps were taken by the Ceylon Government to implement the Agreement.¹⁷⁴ But the separate register for those who were not on the electoral register was not prepared, though the Government went ahead with the amendment to the Immigration and Emigration Act. Ceylon maintained that she had only expressed an intention to prepare the register, but did not undertake an obligation. India regarded the preparation of a non-nationals' register as a condition precedent for the amendments to the Immigration and Emigration Act.¹⁷⁵ Also Ceylon suspended the renewal of residence permits of those Indians whose citizenship applications were pending, and sought to deprive them of their jobs and to repatriate them to India. This they claimed to do by way of the implementation of the Agreement, and serious differences developed on this question between India and Ceylon.^{175a}

The more serious difference of opinion was, however, over the status of those Indians whose applications for Ceylon citizenship were rejected by the Government of Ceylon. Ceylon complained that no significant progress was made in registering such residents as Indian citizens and that the Indian High Commissioner refused the applications of thousands of such persons for registration as Indian citizens. India complained, on the other hand, about the slow disposal of applications by the Ceylon authorities and the low percentage of registration as citizens. She pointed out that registration had decreased since the Agreement and that several applications had been rejected purely on technical grounds.¹⁷⁶

Negotiations held between the two countries on the 9th and 10th of October, 1954 did not solve the differences.¹⁷⁷ According to Ceylon those persons whose applications had been rejected by Ceylon were Indian citizens, while India maintained that they were stateless.¹⁷⁸ Neither party was prepared to change its stand. However, they agreed that the Indian High Commissioner would not refuse registration on the ground that the applicants had earlier applied for Ceylon citizenship, and the applications had been rejected by Ceylon. Ceylon agreed to simplify the procedure for registration and review the cases where applications had been rejected on purely technical grounds.

But the situation did not improve and Ceylon continued to reject a large number of applications for citizenship. On March 31, 1955 Prime Minister Nehru told Parliament: 'In Ceylon we have been, I think, co-operating and patient. . . . But I must confess to a feeling of frustration that what we have been aiming at is not realised.' He gave the following figures: In nine months from December 1953 to September 1954, 45,236 applications were rejected by Ceylon and 7,505 were accepted. During the next four months 36,260 applications were rejected and only 21 were accepted and by March 1955 it had come to a stage that hardly any application was accepted.^{178a} Conditions greatly deteriorated after the Sri Lanka Freedom Party came to power in 1956. Further, the S.L.F.P. leader Mr. S.W.R.D. Bandaranayake's campaigning with the help of the Buddhist *bikhus* created wild communal frenzy in the island, that later caused serious communal riots, the like of which Ceylon had not seen before.¹⁷⁹ This vitiated the atmosphere in Ceylon for obtaining a reasonable solution to the ticklish problem of the Indian settlers.

For some time after coming into power Mr. Bandaranayake avoided the issue of Indian settlers.^{179a} But when India suggested arbitration of the differences over the interpretation of the 1954 Agreement, he did not agree to the suggestion.¹⁸⁰ In 1959, the constitutional provision for a separate register for citizens of Indian origin was done away with.¹⁸¹ In 1961, a visa tax of Rs. 400 per person per year was imposed on all the Indians holding residence permits.¹⁸² In 1963, a 10% tax on remittances abroad for maintenance, and for transfer of assets was imposed.¹⁸³ In April 1964, the Government of Ceylon announced that it would pay up to Rs. 1000 per Indian family as inducement if they leave Ceylon for good. No one, however, seems to have taken advantage of this offer.¹⁸⁴

Indian businessmen and traders in Ceylon are engaged in import, wholesale and retail trade of textiles, subsidiary foodstuffs and pharmaceuticals. The new trade policy announced by the Government of Ceylon in July 1964 virtually precludes non-nationals from such trades in future. The government proposes to establish a State Trading Organization which will handle the import of all essential goods and the rest of the imports will be Ceylonised. The wholesale distribution of goods will be entrusted to the state-run wholesale co-operative establishment while retail trade will be handled by the government shops, co-operative societies and Ceylonese retail traders. As a result of this trade policy, Indian businessmen and traders will have eventually to wind up their business in Ceylon and leave the country. The number of

Indian businessmen and small traders affected will be between two and three thousand, besides nearly 6,000 other Indians holding visas and employed in Indian establishments. There is also another category of nearly 30,000 Indians in Ceylon who hold passports without visas, having come into the country before 1949 and residing there since then without break.^{184a}

The attitude of the Government of India towards the Indians in Ceylon till recently was that those whose citizenship applications had been rejected by Ceylon were either Ceylonese citizens or were for the present stateless,¹⁸⁵ and that India was under no obligation to take them back. In the case of the Indian nationals in Ceylon, however, the attitude has been that India cannot question the right of Ceylon to squeeze them out.¹⁸⁶ Mr. Nehru had also developed the theory that India, a big country, should always try to remove the fears which small countries may have about it. India seems to have been largely guided by this policy in her relations with Ceylon.¹⁸⁷

The question of language is another major issue in Ceylon.¹⁸⁸ For a long time the Sinhalese wanted their language to be given a supreme status to the exclusion of Tamil for official purposes, while the Tamils wanted parity for both the languages. The Sinhalese attained their objective in 1956 when their language was made the sole official language of Ceylon, though the agitation for parity continues.

This agitation is spearheaded by the Federal Party (representing the bulk of the native Ceylon Tamils) which also stands for autonomy for Tamil areas in a federation.¹⁸⁹ Because of this political implication, the Ceylon Workers' Congress and the Ceylon Democratic Congress, both organizations of workers of Indian origin, have kept aloof from the agitation.¹⁹⁰ For example, in April 1958, when the Federal Party observed a *hartal* over the police firing as a result of the party's campaign to obliterate Sinhalese 'Sri' signs from automobile number plates, both the organizations dissociated themselves from the *hartal*.¹⁹¹ But the issue of language being one concerning both the Ceylon Tamils and the Indian Tamils, the latter have not, however, been able to avoid the issue completely. Particularly, the Ceylon Democratic Congress has, on a number of occasions, expressed itself in favour of parity.¹⁹² So too the Federal Party has demanded franchise for Indian labourers.¹⁹³

Mr. Thondaman, President of the Ceylon Workers' Congress had for some time advocated tripartite negotiations among the two governments

and the Congress for arriving at a solution for the problem¹⁹⁴ of Indians.¹⁹⁵ On the other hand, Mr. Azeez, President of the Ceylon Democratic Congress had insisted that the issue should be settled between the Government of Ceylon and the settlers.¹⁹⁶ The latter view was subsequently accepted by Mr. Thondaman also.¹⁹⁷

Recent Developments in Ceylon

The Prime Minister of India visited Ceylon in 1957 and 1962, and the Ceylon Prime Minister visited India in 1961 and 1963. But, on none of these occasions, the question of Indian settlers in Ceylon was discussed. Mr. Nehru, at the time of his death in May 1964, was looking forward to receiving Mrs. Bandaranayake, the Ceylon Prime Minister, at Delhi for talks on this question. Like the Indo-Ceylon Joint Report of 1942, the 1954 Agreement also appears to have been virtually abandoned by the parties and an attempt was being made by both the Governments to reach a new agreement on the issue of the stateless persons.

In October 1964, talks were held at Delhi between Mrs. Bandaranayake and the Indian Prime Minister Mr. Lal Bahadur Shastri for this purpose and an Agreement was concluded as a result of the negotiations. Earlier in September, Mr. Swaran Singh, the Indian External Affairs Minister, paid a good-will visit to Ceylon, and during his visit one heard a great deal about the need for a new approach to the problem, and Mr. Shastri and Mrs. Bandaranayake, in their talks, indeed adopted a fresh approach to the problem and reached a political settlement though they said that they did not abandon their respective earlier positions.¹⁹⁸

The Shastri-Bandaranayake Agreement, signed on October 30, 1964, contains, *inter alia*, the following provisions:¹⁹⁹

1. All persons of Indian origin in Ceylon who are not citizens of Ceylon or India should become the citizens of either state. The number of such persons in Ceylon was agreed to be 9,75,000.
2. Out of this 9,75,000, Ceylon agreed to grant citizenship to 3,00,000 persons together with the natural increase in that number, and India agreed to grant citizenship to 5,25,000 persons together with the natural increase in that number, and accept their repatriation to India. This leaves out in Ceylon 1,50,000 stateless persons, whose 'status and future' will be determined by future agreement.

3. The grant of citizenship by Ceylon, and the acceptance of repatriates by India, 'shall both be phased over 15 years and shall, as far as possible, keep pace with each other'.
4. Ceylon agreed to grant to the persons to be repatriated, during the period of their residence in Ceylon, 'the same facilities as are enjoyed by the citizens of other States (except facilities for remittances) and normal facilities for their continued residence, including free visas.' Such of those among them who are gainfully employed in Ceylon can remain in their jobs till repatriation or till they attain 55 years, whichever is earlier. 'Subject to the exchange control regulations for the time being in force, which will not be discriminatory against the persons to be repatriated,' the repatriates can take with them all their assets at the time of their departure for India. Ceylon further agreed that 'the maximum amount of assets which any family shall be permitted to repatriate shall not be reduced to less than Rs. 4,000'. Apparently this provision ensures that, whatever be the exchange control regulation for the time being in force, the repatriate families will be allowed to take upto Rs. 4,000 with them.
5. Both the countries agreed to set up a joint machinery to implement the Agreement.

The most important feature of the Agreement is that India has abandoned her stand that whether a Ceylon Indian should acquire the citizenship of India or Ceylon is a matter for his choice, and has agreed to the determination of his nationality and his country of residence by the two governments, without any reference to his opinions or desires. Under the 1954 Agreement Ceylon was entitled to offer inducements to the people of Indian origin to acquire citizenship of India, and India was obliged to give them facilities to do so, but, all the same, the acquisition of Indian citizenship was a voluntary act on the part of the persons concerned. But under the Agreement of 1964, it has become involuntary, and is sought to be imposed on them. It is most unfortunate that India should have agreed to such terms. As the Ceylon Democratic Congress said, in a resolution, the stateless persons have been treated as a commodity rather than human beings to solve a political tangle.²⁰⁰ It is as yet too early to assess the likely consequences of this change of stand by India on the position of Indians settled in other countries. But it is to be

feared that those countries will hereafter press India to agree to compulsory repatriation of Indians settled there.

Having agreed to divest the stateless of their right to choose either nationality, the negotiations between India and Ceylon degenerated into a game of numbers, Ceylon trying to get as many persons as possible repatriated to India. In recent times Ceylon had exaggerated the number of stateless persons in Ceylon. In July 1964, Mrs. Bandaranayake claimed that there were 11,65,000 stateless persons in Ceylon, and demanded that all of them should be taken by India.²⁰¹ When Mr. Swaran Singh visited Ceylon in September, Ceylon asked him to take back 7,00,000 of them.²⁰² India's agreeing at the Delhi talks to take back 5,25,000 persons and to leave undecided the fate of 1,50,000 persons is a big concession by her, and the agreed total number of stateless persons in Ceylon as 9,75,000 appears to be exaggerated.²⁰³ Under these circumstances, and judging in the light of Ceylon's past conduct regarding the 1954 Agreement, one is left to wonder whether, as stipulated in the 1964 Agreement, 3,00,000 stateless persons will in fact acquire citizenship of Ceylon.

Soon after the signing of the Agreement, Prime Minister Mrs. Bandaranayake told the Ceylon Senate that the registered citizens of Indian origin were proposed to be placed on a separate electoral register. She said, as a sovereign state, Ceylon was competent to do so.^{203a} The Ceylon High Commission in India tried to justify the proposed measure on the ground that India agreed to a similar measure in 1954.^{203b} True, under clause 5 of the 1954 Agreement, India had agreed to the preparation of such a separate register. But it was to be a purely temporary measure, and Ceylon had agreed 'that this arrangement will last for a period of only 10 years'. The reason for placing the registered citizens of Indian origin on a separate register, as Mrs. Bandaranayake said in the Senate, is to safeguard the interests of the Sinhalese.^{203c} In other words, Ceylon wants to make the citizens of Indian origin politically ineffective.

The Sri Lanka Freedom Party-Lanka Sama Samaj Party Coalition Government of Mrs. Bandaranayake was recently defeated in Parliament on a vote on the Throne Speech of the Governor-General. Dissolution of Parliament and General elections are soon to follow. It would seem these developments are going to have no effect on the implementation of the latest Agreement, and discussions between India and Ceylon officials for setting up a joint machinery for the implementation of the Agreement have already begun.²⁰⁴

The position of Indian nationals in Ceylon also has been deteriorating of late. Till recently non-nationals leaving Ceylon for good were allowed to take away Rs. 2,50,000 with them, and the balance of their assets left behind could be taken out in annual instalments of Rs. 25,000. But the budget proposals made in August 1964 have completely altered this position. According to the proposals non-nationals leaving Ceylon once for all will be allowed to transfer only those assets which were originally brought into Ceylon' by them, and the maximum amount that can be so taken out is fixed at Rs. 75,000 in the case of Indians and double that amount in the case of others. These proposals mainly hit the Indians, because many Indian businessmen, who came to the island decades ago as employees, have prospered because of their industry and thrift, and have invested their savings in Ceylon. Besides, the individual assets of a majority of Indian establishments now exceed Rs. 1,00,000, as, since 1958, under the Ceylonization policy, renewal of residence visas was restricted to owners of concerns with substantial capital. The budget proposals also seek to put a moratorium on the transfer of dividends, profits, interests and savings for a year, which will cause great hardship to many persons in India who depend on these transfers for their livelihood. As it is, since February 1964, all remittances of dividends and profits have been suspended by the Government of Ceylon.^{204a}

The restrictions on the transfer of the assets of Indians—which *in fact* is not a mere restriction, but outright prohibition—amounts to confiscation without compensation being paid, and what is more, there is clear discrimination between Indians and other foreigners in this matter. One can only be surprised that the Government of India, which always proclaimed that a law which discriminated against Indians as such was not acceptable to it, has not even protested against this. However, Mr. Dinesh Singh told Parliament that the Government of India has 'requested' the Government of Ceylon to raise the ceiling on repatriation of assets of Indians leaving Ceylon for good to the level applicable to other foreigners.^{204b}

Burma

After the War, Burma was under a military administration for a short time from May 1945 to October 1945 when a civil government was set up. On January 1, 1948, Burma became independent outside the Commonwealth under a new Constitution.²⁰⁵

The new Constitution laid down the law of citizenship in Burma. Section 11 of the Constitution provided for citizenship to every person :

- (1) both of whose parents belonged to any of the indigenous races of Burma, or
- (2) who was born in any of the territories included in Burma, and at least one of whose parents belonged to any of the indigenous races of Burma, or
- (3) who was born in any of the territories included in Burma, of parents both of whom if alive at the commencement of the Constitution would have been citizens of Burma, or
- (4) who was born in any of the territories which at the time of his birth was included within the Commonwealth, and who had resided in any of the territories included in Burma for at least eight out of the ten years immediately preceding the commencement of the Constitution, or on January 1, 1942 and who intended to reside permanently in Burma and signified his election for the citizenship of Burma in the manner prescribed by law.

Section 12 of the Constitution provided that Parliament may include any class of persons for citizenship or take away the citizenship of any class. Section 13 guaranteed equality before the law *to all citizens* irrespective of birth, religion, race or sex, and against arbitrary discrimination, and Section 14 guaranteed equality of opportunity *to all citizens* in matters of employment and in carrying on any occupation, trade or business.

For the purpose of granting citizenship, the Burmese races were treated preferentially as they acquired citizenship automatically by operation of the Constitution, whereas the non-Burmese races had to possess a residential qualification and then had to apply for citizenship. This by itself cannot be called unfair, nor had the Government of Burma any discretion in the matter of withholding citizenship from Indians having the requisite qualifications; the applications of those qualified for citizenship could not be rejected. Indeed the Government of Burma welcomed the presence of Indians in Burma,²⁰⁶ and once they became citizens, Indians were not discriminated against.²⁰⁷ But many Indians seem to have failed to get citizenship by failing to apply for it.²⁰⁸ Further, in trade, indigenous races have always pressed the Government for preferential treatment, though the Government has resisted such demands.²⁰⁹

The Constitution gave a special status to Buddhism. But Hinduism, Islam and Animism were also recongnized as religions of Burma. Abuse of religion for political purposes and discrimination against religious minorities were prohibited. Later, in 1961, the Constitution was amended to make Buddhism the state religion and its promotion a state responsibility.²¹⁰ But suitable amendments were also made to safeguard other religions.²¹¹ The official bodies set up by U Nu's Government for the promotion of Buddhism were, however, dissolved by Ne Win's Revolutionary Government in 1962.²¹²

Maung Maung says that in Burma 'the resumption of land from the big landlords, the absentee landlords, the Indian Chettyars and money-lenders, and the distribution of the land to landless peasants has always been a fixed aim and ideal of the nationalist movement.'²¹³ Accordingly, the Constitution in Section 30 provided:

- '(1) The State is the ultimate owner of all lands.
- (2) . . . the State shall have a right to regulate, alter, or abolish land tenures or resume possession of any land, and distribute the same for collective or co-operative farming or to agricultural tenants.
- (3) There can be no large land holdings on any basis whatsoever. The maximum size of private land holdings shall, as soon as circumstances permit, be determined by law.'

In furtherance of this national philosophy a number of legislative measures were taken by Burma after independence. Indeed they were the continuation of efforts made by various administrations before and during the war. Every law in this direction hit, among the landlords, the Indian Chettyars hardest because they were not only the largest section of absentee landlords, but also they owned the largest holdings.²¹⁴

In 1947, the Tenancy Standard Rent Act fixed land rent at twice the land revenue. In 1948, the Disposal of Tenancies Act empowered the Government to lease agricultural land, in excess of fifty acres owned by any person, to any tenant of its choice at the standard rent. These measures hit the Indian land owners in Burma, but the Government of India said that since the land in excess of 50 acres was not being nationalized the question of compensation did not arise.²¹⁵

The most important land reform measure was the Land Nationalization Act of 1948. The Act could not be implemented because of the civil war and rebel activities; besides, it was a hastily formulated Act, and hence proved unworkable.²¹⁶ Therefore, a new and more

carefully worked out Act was passed in 1953, which further repealed the old Act.

The Land Nationalization Act of 1953 prohibited non-cultivators from owning land, and cultivating owners were allowed to own a maximum of fifty acres only. Compensation for land so taken away under the nationalization measure was payable at a maximum of 12 times the land revenue on a sliding scale, the first slab of 100 acres getting the maximum compensation (which however should not exceed Rs. 60 per acre) and the last slab of over 1,100 acres getting an amount equal to the land revenue. Evidently the compensation payable was highly inadequate. The land revenue ranged from one rupee to five rupees per acre.²¹⁷ Under the scheme of compensation the maximum an owner could get at the lowest slab was sixty rupees per acre and the lowest at the highest slab could be just one rupee per acre. Indians owned more than 2 million acres of land, the market value of which was assessed at seventy crores of rupees, and under the land nationalization scheme they expected to get as compensation only one crore of rupees.²¹⁸

But the worst part of it was not even the inadequacy of compensation, but that no compensation was paid for a long time. It was only towards the end of 1955 that the Government of Burma sanctioned 1 million Kyats towards the payment of compensation for the six million acres of land nationalized since 1953, and applications claiming compensation were called for.²¹⁹

The attitude of the Government of India towards the Land Nationalization Act was that since it was a general law applicable to all and not directed against Indians as such, there was no cause for complaint.²²⁰ Regarding compensation, though initially the Government made some representations to Burma, later it had nothing to say at all in the matter. Indeed Mr. Sadath Ali Khan, Parliamentary Secretary to the Minister for External Affairs, pressed for an answer to the question whether the Government of India had 'accepted the compensation offered by Burma', expressed his inability to answer the question.²²¹

Not only was the Government of India not coming forward to the rescue of the Chettyar landholders, but the Indian community in Burma by and large, does not also seem to have supported them.²²² The All Burma Indian Association did not co-operate with the Chettyars, and requested the Government of India not to send an Indian delegation to Burma to discuss the question of compensation with the Government of Burma.²²³ Some members of the A.B.I.C expressed themselves even

against token payment, and A.B.I.C. as a body passed a number of resolutions expressing its strict neutrality in the matter of land nationalization.²²⁴

In 1956, the Government of Burma adopted the following policy regarding payment of compensation :

- (1) Landholders with holdings not exceeding 100 acres were to be paid immediately;
- (2) Those with holdings between 100 and 1,000 acres were to be paid in part; and
- (3) No immediate payment was envisaged for holdings above 1,000 acres.

However, the Government in 1958 decided to pay Rs. 2,500 to each landholder in cash, and the rest in bonds redeemable in 10 years from the 6th to the 15th year of issue. However, the bonds could be redeemed immediately if the value was to be invested in Government undertakings.²²⁵ This policy did not help the Chettyars much because their holdings were far above 1,000 acres. By the end of 1960-61, however, the Indian landholders had received by way of compensation Rs. 1,74,32,084.²²⁶

After the war Indian Commercial interests had suffered, first at the hands of the British, and then at the hands of the Burmese.²²⁷ With General Ne Win's Revolutionary Government going ahead vigorously with Burmanization and nationalization measures since the middle of 1962, their plight has become more acute. In September 1962, it was announced that money-lending licences would be given only to Burmese citizens.²²⁸ In July 1963 it was announced that road transport licences would be given only to citizens of Burma.^{228a} With effect from October 1962 all foreign firms registered as importers under the Registration (Imports and Exports) Order of 1954 were removed from the register.²²⁹ In February 1963, fourteen foreign banks of which five were Indian, were nationalized.²³⁰ At the time of nationalization compensation was offered to be paid within three months. But, on the expiry of three months, only the original capital of the banks, and not the market value of the shares, was allowed to be transferred to the countries of origin.²³¹ Final settlement of compensation is still pending, nearly fifty months after the nationalization.

For a long time Burma recruited doctors from India, mainly for rural service. U Nu at the time of his being deposed was contemplating the

recruitment of about 100 doctors from India. But Ne Win decided to dispense with the services of foreign doctors and served notices on 30 Indian doctors terminating their services.²³²

The most important nationalization measure in Burma is the recent nationalization of shops.^{232a} While the nationalization of land, banks and the export and import business had hit the Chettyars and other landlords and big financiers, the taking over of shops has mainly hit the small traders.^{232b} As a result of this measure over a lakh of Indians have been deprived of their means of livelihood. The number of Indian concerns taken over is over 12,000 with assets worth Rs. 15 crores.^{232c}

What makes this latest nationalization measure so appalling to the Indians is that not only have they been deprived of their livelihood, but that prompt compensation has not been paid. True, a committee has been set up to determine the compensation payable, but judging from the record of the Burmese government in the case of land and bank nationalizations, there is not much room for hope that such compensation for the nationalized shops will be paid early. It is also feared that compensation when paid will be far from adequate.^{232d} These dispossessed Indian shop-keepers, who have no other source of income, are reported to be virtually starving in Burma, and while most of them under the circumstances want to come back to India, they are stranded in Burma either for want of money to pay for their passage or for want of passage facilities—often both. Further, Indians leaving Burma are not allowed to take anything with them, not even their personal clothings and jewellery. There were instances when married women were not allowed to take their *tali* (holy thread, often with golden pendants, worn by Hindu married women) with them.²³³ It has been reported that the Burmese customs authorities seized even the saris and personal clothings (other than those worn by them) taken by the Indian refugees who left for India in ships chartered by the Indian Government.^{233a} Also over 500 Indians have been arrested under the new trade regulations. Such victimization of poor and helpless foreigners has no parallel in International relations. The demonetization of 50 and 100 Kyat currency notes has further hit the Indians as, by this measure, their liquid assets have been frozen.^{233b}

In the last week of May 1964, Mr. Y.D. Gundevia, Foreign Secretary to the Government of India visited Rangoon for talks with the Burmese officials on the question of the payment of compensation to the deprived shop-keepers and related matters. But from what has been published in the press, it is clear that the Foreign Secretary has not been successful in persuading the Burmese officials to be reasonable in their attitude to

these Indians. Indeed Burma even objected to the normal and legitimate activity of the Indian embassy in accepting the valuables of Indian nationals for safe custody. Accordingly this service was discontinued. The Deputy Minister of External Affairs Mr. Dinesh Singh claimed in Parliament that the situation has improved since Mr. Gundevia's talks in Rangoon, but the fact that he refused to give the details of the talks adds strength to the Opposition charge that it is far from satisfactory. The fact seems to be that, as stated above, Burma is not content with seizing the shops of these poor Indians but is intent upon confiscating their belongings. It is surprising that the Government of India has not even lodged a protest against these acts of the Burmese Government. Considerable anxiety is, however, felt in India over the inhuman and heartless treatment to which the poor Indian shopkeepers in Burma have been subjected.^{233c}

The Minister for External Affairs, Mr. Swaran Singh, paid a good-will visit to Rangoon in the first week of September 1964. But as the Minister admitted in Parliament later, no arrangement could be agreed to between him and the Burmese authorities regarding the all important questions of payment of compensation for the shops of Indians nationalized and the repatriation of the assets of those who were compelled to leave Burma.^{233d} At a press conference in Rangoon he said that the compensation for nationalized assets of the Indians was a matter to be determined by the laws and procedure of Burma, and all that was 'recognized' was that the 'determination of the compensation' should be expedited.^{233e} Mr. Singh's only 'achievement', as far as the dispossessed Indians were concerned, was that he returned with the 'impression' that the hundreds of Indians who had been arrested under the new trade regulations would be released unless the charges against them were of a 'serious nature'. He had the further 'overall impression' that Indians as such were not discriminated against, and that Indian interests were safe in Burma.^{233f}

Mr. Singh also said that the difficulties of the Indians will disappear when the policy of the Burmese leaders was implemented fully and in the spirit in which it was conceived.^{233g} Commenting on this statement, Mr. K. Rangaswamy, the political correspondent of *The Hindu*, wrote: '(W)hatever the policy of the Burmese leaders at the top, in its implementation at the lower levels there is difficulty. It is in the stage of implementation that discrimination comes in . . .'^{233h} For example, retail shops doing 'honest business' were exempt from the nationalization

decree. But who is to decide who did honest business? Here is an opportunity for the officials to discriminate against Indians.^{233a}

In the communiqué issued at the conclusion of the talks, Mr. Swaran Singh 'noted with satisfaction that the various measures introduced by the Government of the Union of Burma towards achieving a socialist society are not discriminatory against foreigners as such....' The communiqué also stressed 'the broad unity and identity of approach' of the two countries on international issues, and added that both the countries 'have been doing their best to achieve the common goal of bettering the living standards of their peoples by building up each a society based on socialism.'^{233j} From an analysis of the communiqué and the statements of the External Affairs Minister, it would seem that the Government of India gives greater importance to the policy of friendship with Burma than to the legitimate claims of Indian citizens in Burma not to have their properties confiscated.

The Government of India apparently feels helpless on account of the argument, which in fact has become the stock argument of the Government whenever Indians in other lands are subjected to harsh treatment, that the measure is a general one and does not discriminate against Indians.²³⁴ There can be no doubt that the present nationalization is aimed mainly at the Indians to compel them to leave the country leaving behind all their possessions. There may be a legitimate socialistic objective in the case of the land and bank nationalizations and that of import and export business. But the nationalization of shops is of a different category. Here retail shops belonging mostly to poor Indians have been suddenly taken over without warning, and the owners have been literally driven to the streets and they out of the country also, without any compensation being paid. Here there is no question of bringing about social reform by putting an end to exploitation by a small group of rich capitalists or landlords, as in the case of the earlier reforms. It is thus hard to escape the conclusion that Burma has failed to keep to the 'minimum standards of International Law' in its treatment of Indian residents.

Malaya

Before the War, Malaya was a political backnumber. The tiny states of Malaya were joined together in a loose relationship and the people of these states lived their humble and contented lives under their Sultans, who in turn were satisfied with their tutelage under the British Crown. There was no political activity in Malaya, and indeed there was no

common feeling of belonging to one nation. Rather the people and the Sultans thought in terms of their states. Neither did the British envisage giving of independence to Malaya, nor in Japan's promised new order—the Great Eastern Co-prosperity Sphere—was Malaya to be free. But after the War there had been rapid political developments in Malaya and, between 1946 and 1957, the peninsula evolved as a nation and became a free state.

Soon after the War, Malaya for a short period came under a military administration at the end of which a unitary government was formed. The proposals for a unitary Government made in January 1946 were the signal for intense political activity which Malaya had not known before. The Malays, who always considered their Sultans as their rulers and sovereigns, resented the curtailment of their power under the new set-up, and proposals for citizenship to non-Malays, in their eyes, involved a denigration in their own status as the sons of the soil. The various Malay associations joined together under the name of the United Malayan National Organization to oppose the proposals. Simultaneously, the Indian and Chinese associations also joined forces to put forward their points of view.

Though the British inaugurated the Union in 1946, they went ahead with consultations with the Malays and as a result of these further negotiations, a federation was formed in 1948.²³⁵ The federal Constitution of 1948 provided for federal citizenship for non-Malays, which however, was not equivalent to a Malayan nationality.^{235a}

One of the first things the federation had to face was a communist rebellion, with the result that law and order became the most important concern of the country relegating constitutional consultations to the background. However, the United Malayan National Association (U.M.N.O.) and the Malayan Chinese Association (M.C.A.) joined together in 1953 and demanded early independence for Malaya, and, after a great deal of hesitation, the Malayan Indian Congress (M.I.C) also joined the Alliance in 1957.^{235b} The coming together of the three parties, though apparently on a communal basis, meant the beginning of a genuine Malayan nationalism, and Malaya became free in 1957 under a new Constitution.

Part III of the Constitution of free Malaya provided for Malayan citizenship. A distinction was, however, made between those born before Independence Day (Merdeka Day) and those born after that day. All Malays born before the Merdeka Day acquired citizenship by operation

of law. Non-Malays born before that day, to get citizenship, must have lived in Malaya for eight out of ten years immediately preceding the day, and should apply for it. All those born in Malaya after the Merdeka Day acquired citizenship without any discrimination. For naturalization, the applicant should have lived in Malaya for 10 out of 12 years and should have a knowledge of the Malay language.

Under the Constitution the Malays have a preferred place, and their protection is the duty of the Head of State. The religion of the Malays, Islam, is the state religion.

Soon after the war many Indians came back to India from Malaya. But in 1950 it was estimated that there were over 5,64,000 Indians and Pakistanis in Malaya.²³⁶ Most of the Indians in Malaya are citizens of Malaya. By the end of 1959, there were 6,96,186 Indians in Malaya.²³⁷

The Malayan Indian Congress is a partner, though a junior partner, in the ruling U.M.N.O.-M.C.C.A.-M.I.C. Alliance Party. This by itself is evidence that Indians have got their due rights recognised in Malaya. Further the trade unions in Malaya are dominated by Indians.²³⁸

In 1955, there were about 97,000 Indians in Singapore.²³⁹ By 1958 between 15,000 and 18,000 of them had acquired Singapore citizenship.²⁴⁰ The citizenship law in Singapore was very liberal. So in 1960 amendments were made to bring it into line with the law in the federation.²⁴¹

In 1963 the Federation of Malaya, Singapore, British North Borneo and Sarawak were merged together to form the Federation of Malaysia. Malaysia has a total population of over 9 million, of which a little over 4 million (46.7%) are Malays, nearly 4 million (41.9%) Chinese and over 8,25,000 (9.2%) Indians.²⁴² There is a delicate balance of population between the Malays and the Chinese with the Indians interspersed between them.

India and Malaya (and now Malaysia) all along had extremely good relations. Malaya openly supported India in the recent Sino-Indian border conflict. Politics in Malaya has always been communal and continues to be so; but the country is moving rapidly in the direction of achieving a multi-racial nationalism. It has been said that the communist rebellion was the best thing that Malaya ever had,²⁴³ because as a result of the privations the communities underwent during the rebellion together, they also came closer. By and large, Indians in Malaya lead comparatively prosperous happy lives.

CONCLUSION

When Indian labourers were indispensable for the economic development of Ceylon, Burma and Malaya, they were very much sought after in these countries, and every facility and protection was given to them. Later, with the indigenous population coming forward to do the work performed by the Indians, and economic conditions deteriorating during the Great Depression, the position became different. As representative institutions developed and nationalism made its appearance, the situation got further complicated.

Indian money lenders, particularly the Chettyars, went to all these countries. In Burma, while their capital was responsible for the rapid expansion of rice cultivation, two million acres of land, which were given as security for loans, passed into their ownership during the Depression. A similar situation was avoided in Malaya by virtue of the regulations reserving lands for the Malays. Indian labourers went to Malaya under carefully worked out and implemented Governmental arrangements. On the other hand, in the case of Burma, as that country was a part of India till 1937, there was practically no regulation or control of emigration to it. While Burma and Malaya after independence offered citizenship to those Indians who had an interest in the countries and had made those countries their permanent home, Ceylon had been reluctant to do so, and every attempt was made by its rulers to deprive citizenship and voting rights to as many Indians as possible.

The problem of Indians overseas was, to begin with, a Commonwealth problem, as the bulk of Indians abroad were in the other Commonwealth territories.²⁴⁴ And India's attitude to it boiled down to this: that the Indians in other Commonwealth territories should be treated on a footing of equality with the local people.²⁴⁵ The *raison d'être* for this attitude was the racial discrimination practised by the Europeans in Africa, which had caused very strong resentment in India. The Government of India recognized the intensity of feelings in India quite early,²⁴⁶ and in 1922, with the passing of the Indian Emigration Act, the two Houses of the Indian Legislature were given full control over emigration, and it was the one issue over which the Government and the Legislative Assembly were always in agreement.

In Ceylon under the Donoughmore Constitution, and in Burma after the separation, limited popular governments were introduced, and with that the character of the problem of Indians in those countries changed to

some extent from being merely a Commonwealth problem of securing equal treatment for them. It acquired a new dimension in that the emerging nationalism of those countries contiguous to India sought to control the migrations of Indians to those countries and to limit or curtail their rights there. But at the same time those countries wanted to secure enough labour for certain purposes—for the estates in Ceylon and for seasonal agricultural operations in Burma.

In the negotiations with Ceylon and Burma in 1941, Sir Girija Shankar Bajpai, the Leader of the Indian Delegation, seems to have approached the problem realistically, though in the process, he conceded to the other sides perhaps a little too much. But looking at it from this distance of time now, it would seem that the agreements which Sir Girija Shankar signed contained the best terms that India could secure under the circumstances.

If some of the provisions of the agreements were unacceptable to India, those provisions could have been modified by further negotiations. But the way the Legislative Assembly proceeded to deal with them left no scope for such an approach, and the uncompromising and rigid position, taken by the Assembly created an intractable situation. The fact that the Assembly was not broadly representative of the country, and that it had otherwise little power seems to have tended to the Assembly's overplaying its hands in the one field in which it really had power, and it cannot be said that it acted realistically and with foresight in the one situation where it really could have done so. Mr. Aney, who was appointed as the Member for Indians Overseas only shortly before the debate on the agreements, could not play an effective role and, faced with a hostile Assembly, he decided to adopt the line of least resistance.

The attitude of the Indian National Congress was, in the beginning, the same as that of the Government. The Congress wanted to secure to 'the Indian emigrants equal rights with European emigrants' in the Commonwealth, and that 'Indians...should be placed on a footing of absolute equality with the other subjects of His Majesty.'²⁴⁷ But after the First World War, with the pattern of the Commonwealth changing, and with the problem of Indian settlers in Asian countries coming to the fore the Congress seems to have felt that the issue was not a simple one. From 1920 onward, it did not express any particular attitude beyond the general statement that India in her enslaved condition could not help her children abroad, and that her freedom was a *sine qua non* for their well being.²⁴⁸

When India became free, while the overseas Indians looked to her for help, the Congress which took over the reins of power had no definite policy at all regarding them. But the other countries were also becoming free and the common status of the people in the Commonwealth as British subjects was coming to an end. Faced with this problem, to which no thought seems to have been given by the Congress before, the Government of India took up the position that if the Indians abroad wanted political rights they could take up the citizenship of those countries where they were settled, and that in that event India would cease to have any interest in them. If they wanted to remain Indian nationals they could do so by taking up Indian citizenship. But if they became Indian citizens they could not claim political rights in the countries where they were settled, and those countries could deal with them in any manner they thought fit. If their property was nationalized, as was done in Burma, the payment of compensation was a matter to be determined by the laws and procedure of those countries, and India could not intervene in the matter. The only protection they could claim from India, if that could be called protection at all, was that they could always come back to India if pushed out from those countries. (Till recently, whether a person of Indian origin settled in another country should adopt the citizenship of the country where he is settled or should adopt Indian citizenship was treated by India as a matter to be left to his choice, but as with the conclusion of the Indo-Ceylon Agreement of 1964, it would seem that India feels that it may also be determined by Agreement between India and the other countries concerned).

The Government of India, however, stuck to the policy of the Government in the pre-independence era of securing equal treatment to Indians abroad, in a limited sense. It maintained that a law discriminatory against the Indians as such was not acceptable to it, but it would not object if the law was general and applied to all aliens.²⁴⁹ However, it failed to see that under the formal cloak of non-discriminatory treatment to all foreigners, very often the Indians were the real targets of attack. Besides, even the actual cases of discriminations, as in the case regarding remittance facilities for Indians leaving Ceylon, the Government of India made no protests but only mild requests.

In view of the loudly proclaimed fear of Ceylon about the Indians swarming the island, Mr. Nehru had been at great pains to remove this unreasonable fear from the Ceylonese minds, and India's policy in regard to the Indians in Ceylon seems to have been influenced by this consideration also.

In an effort to secure the friendship and co-operation of her neighbours in Asia, India has soft-pedalled the problem of Indian settlers in these countries, both of her nationals and of other persons of Indian origin, but such a policy of friendship and conciliation should not degenerate into one of appeasement. India only reveals her weakness by failing to assert her right that the treatment of her nationals abroad shall not fall below the minimum standards of International Law. The Indian policy of generosity to her neighbours and of pursuit of friendly relations with them is certainly laudable, especially in the context of the Chinese menace, and there is no doubt this policy has been successful in recent years in relation to both Burma and Ceylon. However, it is to be hoped that India would firmly prevail on these countries not to fail in their duty to do justice to the hapless Indian labourers and shopkeepers who are being ousted from these countries after generations of service and toil, for no fault of their own.

NOTES AND REFERENCES

1. See C Kondapi, *Indians Overseas, 1838-1949*, Oxford University Press, New Delhi, 1951, pp. 2-5.
- 1a. The legal position apart, the retention of British nationality seems to have little practical value for them. India certainly cannot protect them if they are British subjects; and it is extremely unlikely that Britain will come to their rescue in opposition to the local populations.
2. See Kondapi, *op. cit.*, pp. 6, 8-10
3. See *infra*, pp. 410, 412, 414.
4. See for details, Kondapi, *op. cit.*, pp. 29-30, 45-46.
5. *India in 1922-23*, pp. 2-3
6. *Ibid.*, pp. 17-18
7. *Ibid.*, pp. 15-16.
- 7a. For example, in 1841, emigration of indentured labour to Mauritius was prohibited when it was brought to the notice of the Government of India that Indian labourers were ill-treated there, (Kondapi, *op. cit.*, p. 9). Emigration to Ceylon was prohibited in 1839 for similar reasons (*Ibid.*, p. 31).
8. For example in 1847, emigration of workers to Ceylon was allowed only on the undertaking by Ceylon that the island would not be allowed to be made an entrepot for further emigration to other territories (*Ibid.*, p. 31).
9. *India in 1926-27*, Appendix, p. 351.
10. See *ibid.*, pp. 263, 351-52; *India in 1927-28*, pp. 300-301.
11. *India in 1930-31*, p. 61.
12. The Notification providing for emigration to Burma after separation stated: 'Emigration to Burma for the purpose of unskilled work shall be lawful, subject only to the restrictions in force immediately before the commencement of the Government

of Burma Act, 1935'. Sir Girtja Shankar Bajpai, Secretary, Department of Education, Health and Lands, speaking on the Notification, in the Legislative Assembly, said: 'There is no intention at the moment to impose any restriction on emigration from this country for unskilled work in Burma.' (See *The Legislative Assembly Debates*, 1937, Vol. I, pp. 903-4, 19th February, 1937).

13. See E. F. C. Ludowyk, *The Story of Ceylon*, Faber and Faber, London, 1962, Chapters 6 to 8; Charles Jeffris, *Transfer of Power*, Pall Mall Press, London 1960, p. 52.
14. Ludowyk, *op. cit.*, p. 195.
15. Quoted by Babulal Gupta, *Political and Civic Status of Indians in Ceylon*, Agra, 1963, p. 3.
16. Kondapi, *op. cit.*, p. 31.
17. Ludowyk, *op. cit.*, p. 196.
18. *Ibid.*, p. 197.
19. Kondapi, *op. cit.*, pp. 34-35.
20. *India in 1926-27*, pp. 263, 351-54.
21. *India in 1927-28*, p. 300.
22. Gupta, *op. cit.*, p. 23.
23. *Ibid.*, p. 24.
24. *Ibid.*, pp. 24-25.
25. *India in 1929-30*, p. 66.
26. Usha Mahajani, *The Role of Indian Minorities in Burma and Malaya*, 1960, p. 2.
27. Kondapi, *op. cit.*, p. 47.
28. Mahajani, *op. cit.*, p. 5.
29. Kondapi, *op. cit.*, p. 48.
30. In 1921, 96% of the agricultural labour in Burma was Burmese while only 4% was Indian. Among the cultivating tenants 97% were Burmese and only 2% Indian. In other fields 36% of field workers were Burmese while 55% were Indian, and among the unskilled workers 23% were Burmese and 73% Indian. Skilled and unskilled workers put together, 26% constituted Burmese while 69% of them were Indian (Kondapi, *op. cit.*, p. 363).
31. See Mahajani, *op. cit.*, pp. 3-4; E. H. G. Dobby, *South East Asia*, University of London Press, London, 1958, p. 190.
32. See Mahajani, *op. cit.*, pp. 17-18.
33. See Dobby, *op. cit.*, pp. 175-178.
34. See for details, John F. Cady, *A History of Modern Burma*, Cornell University Press, 1958, pp. 48-49, 95.
35. See for details *ibid.*, pp. 164-168.
36. *Ibid.*, p. 168.
37. A Committee which enquired into the failure of the movement, at one stage of its investigation, even doubted 'whether these little village financing institutions dependent on the spirit of self-help and mutual interest, are really suitable to the people of Burma'. (*India in 1919*, pp. 417-18).
38. See Cady, *op. cit.*, pp. 186, 189, 303.
39. See Mahajani, *op. cit.*, pp. 95-96; Saul Rose, *Britain and South East Asia*, Chatto and Windus, London, 1962, p. 49.

40. See for details, Rose, *op. cit.*, pp. 51-53; Jeffris, *op. cit.*, p. 83.
41. Indians had been trading in South East Asia for centuries, and some of them had even settled down in these areas. In Malaya there is a small community known as Malacca Chettyars who are the descendants of these traders. They are practically assimilated with the local population and should be distinguished from the other Indians. (Mahajani, *op. cit.*, pp. 95, 101-02).
42. Kondapi, *op. cit.*, p. 41.
43. See *Ibid.*, pp. 41-42; Mahajani, *op. cit.*, pp. 96-97.
44. See Kondapi, *op. cit.*, pp. 42, 453-54; Mahajani, *op. cit.*, pp. 97-98.
45. *India in 1926-27*, pp. 263-64.
46. *India in 1929-30*, p. 66.
47. See for details, Ludowyk, *op. cit.*, pp. 190-206.
48. Quoted by Gupta, *op. cit.*, p. 92.
49. Cady, *op. cit.*, p. 47.
50. Dobby, *op. cit.*, pp. 173, 190.
51. *Ibid.*, pp. 111, 113.
52. Gupta, *op. cit.*, p. 90.
- 52*. *India in 1930-31*, p. 61.
53. See *ibid.*, p. 61.
54. *Ibid.*, pp. 61-62.
55. *India in 1931-32*, p. 88.
56. *India in 1932-33*, p. 68.
57. *India in 1933-34*, p. 78.
58. See *The Legislative Assembly Debates*, 1931, Vol. I, p. 1241, February 25, 1931, Statement laid on the table of the House.
59. *Ibid.*, 1931, Vol. V, p. 19, September 7, 1931, Statement laid on the table of the House.
60. See *India in 1930-31*, p. 63.
61. *Ibid.*, p. 63.
62. *Ibid.*, pp. 63-64.
63. *Ibid.*, p. 64.
64. *Ibid.*, pp. 64-65.
65. Gupta, *op. cit.*, pp. 37-39.
- 65a. N. Radhakrishnan 'The Stateless in Ceylon', *The Indian Year Book of International Affairs*, Vol. XII (1963), p. 487 at p. 493.
66. See for details, Kondapi, *op. cit.*, pp. 301, 352. Gupta, *op. cit.*, pp. 84, 98, 99.
- 66a. See *ibid.*, pp. 103-04.
67. See Kondapi, *op. cit.*, p. 36.
68. See Gupta, *op. cit.*, pp. 91-92.
69. *Ibid.*, pp. 94-96.
70. However, as an indirect result of the visit, the Ceylon Indian Congress was born, *Ibid.*, p. 96. Ludowyk, *op. cit.*, pp. 253-54.

71. Kondapi, *op. cit.*, p. 37.
72. *The Legislative Assembly Debates*, 1941, Vol. I, p. 68, February 11, 1941. For the text of the Government of India's communique on the talks, see pp. 68-72, and for the Ceylon Delegation's report on the talks to the Ceylon State Council, see pp. 73-79.
73. *Ibid.*, p. 68.
74. At an early stage of the negotiations a Ceylon Minister said: '... We cannot absorb the full number of Indians in Ceylon... Obviously the absorption of what corresponds to one-sixth of the total population of the country... would undoubtedly lead to the possible result, as many of us see it, of the extermination of our own people... It is really becoming a stark question of survival...' (*Ibid.*, p. 68).
75. Another Minister said: 'We realise that however willing we may be to arrive at an agreement our position is such that the number of Indians who are settled in that country (Ceylon) has to be reduced'. (*Ibid.*, p. 68).
76. *Ibid.*, p. 70.
77. *Ibid.*, pp. 70-71.
78. *Ibid.*, p. 70.
79. *Ibid.*, pp. 70-71.
80. *Ibid.*, p. 71.
81. *Ibid.*
82. *Ibid.*, pp. 71-72.
83. The Indian delegation said: 'The problem of the status of Indians facing us is not peculiar to Ceylon. This problem exists wherever Indians are resident in all parts of the world. Once we concede any qualifications in the matter of citizenship, we open the door to similar claims all over the British Commonwealth of Nations... (B)roadly stated, our position is this: That Indians who have been resident for an agreed period of years in a particular territory under the British Government acquire equality with the indigenous inhabitants of the territory and acquire equality of rights over the whole field of rights. That is the principle we have all along continued to insist upon'. *The Legislative Assembly Debates*, 1941, Vol. I, p. 77, February 11, 1941.
84. The Assembly's resolution said: 'And this Assembly regrets the failure of the Indo-Ceylon conversations... and supports the attitude of the representatives of the Government of India which faithfully represents the point of view of Indian public opinion...' (*Ibid.*, p. 283, February 14, 1941). For the debate on the talks, see *ibid.*, pp. 259-83.
85. The Governor's Message to the State Council read:
- '1. In connection with the recent Informal Conference at Delhi between a Ministerial Mission from Ceylon and representatives of the Government of India, it is desirable to place on contemporary record in the easily accessible form of a Message to the State Council a Schedule of certain matters in respect of which undertakings have been given by the Government of Ceylon to the Government of India...
- '2. Having regard to the circumstances in which these undertakings were given, the Government of Ceylon is bound by them to the Government of India, and I hold myself bound as Governor to withhold approval, ratification or assent in respect of any act, regulation or measure to which the Government of India has not agreed and by which the effect would be to deprive the Indians of the benefit of any of the undertakings.' (Quoted by Mr. Aney, *ibid.*, Vol. IV, p. 886, November 17, 1941). The

undertakings referred to by the Governor were that Indians shall have the same rights as other British subjects and laws safeguarding Indian interests shall not be amended to their detriment without prior permission of the Secretary of State.

86. The Joint Report said: 'The discussions... which terminated unsuccessfully in Delhi in November 1940, were resumed at the initiative of the Government of Ceylon at Colombo in September 1941. The resumed conversations were directed towards particular subjects upon which disagreements had arisen... Exhaustive consideration of the following subjects:

- I. Immigration and Re-entry.
- II. Quotas,
- III. Franchise,
- IV. Registration,
- V. Status and
- VI. General Provisions

resulted in the agreement set out below.' (*Ibid.*, p. 356, November 4, 1941). For the text of Joint Report, see *ibid.*, pp. 352-56.

87. For the debate, see *ibid.*, pp. 884-993, November 17, 1941.
88. *Ibid.*, pp. 888.
89. See *ibid.*, pp. 358-95, November 4, 1941. (See also *infra*, pp. 333-37).
90. See *ibid.*, p. 347.
91. *Ibid.*, pp. 844-45.
92. *Ibid.*, p. 888
93. *Ibid.*, p. 993.
- 93a. Mr. Aney told the Legislative Assembly, in reply to a question, that the Government of India had not lifted the ban on emigration of unskilled labourers to Ceylon. The ban was only relaxed to allow Indian labourers who were already in Ceylon, but had come to India on a short visit, to return to Ceylon. The relaxation was intended to help the Indian labourers to pay their usual visits on a holiday or for social, domestic or religious purposes. (*Ibid.*, 1942, Vol. III, p. 379, September 22, 1942).
94. See correspondence between the Government of Ceylon and the Government of India, *Ibid.*, 1943, Vol. I, pp. 45-46, February 10, 1943, and pp. 466-77, February 16, 1943. In the last letter Ceylon's representative in India said: '... The Board of Ministers (of Ceylon) note with surprise that the Joint Report of 1941 is no longer envisaged by the Government of India as the basis for future negotiations regarding immigration and status of Indians in Ceylon...' (*Ibid.*, p. 474).
- 94a. *Asian Recorder*, 1955, p. 341.
95. Hugh Tinker, *The Union of Burma*, Oxford University Press, 1961, p. 224.
96. Of course, there was no competition for *all* the jobs. The Burmans were not coming forward for the difficult and the menial jobs. In 1939, 69.5% of the unskilled jobs and 94% of the menial jobs were done by the Indians. (See Kondapi, *op. cit.*, p. 365).
97. Cady, *op. cit.*, p. 304. Tinker, *op. cit.*, p. 224.
98. The word 'occupation' is used here in the sense of occupation of land reclaimed from jungles and swamps as against land that has not been so occupied, and the word is *not* used in contra-distinction with 'ownership'. There were large areas of unoccupied land in Burma.

- 99 For details, see tables in Kondapi, *op. cit.*, pp. 307-08.
- 100 Moving an adjournment motion on the riots in the Indian Legislative Assembly, Mr. B. Rajaram Pandian said 'I must say, however, at the outset that the trend of events in Burma during the past nine months or more has been to create a sort of disaffection in the minds of a section of the Burmans, who are for separation, against the Indians, with the result that the Indians are now looked upon with great horror and disgust as being responsible for the impoverishment of Burma.' (*The Legislative Assembly Debates*, 1931, Vol. V, p. 856, September 22, 1931). Mr. F.B. Leach (Burma-Nominated) said: 'The attacks on the Indians are doubtless the outcome of economic and agrarian difficulties.' (*Ibid.*, p. 859). U Tun Aung (Burma-Non-European) said that Burmans attacked not only Indians but all those who had property including the Burmans (*Ibid.*, p. 862).
- 101 Cady, *op. cit.*, p. 305. Also see for official figures, *The Legislative Assembly Debates*, 1931, Vol. V, pp. 777-78, September 22, 1931, Statement laid on the table of the House, and *India in 1930-31*, p. 552.
- 102 See Mahajani, *op. cit.*, p. 72. *India in 1930-31*, p. 552.
- 103 *Ibid.*, p. 553.
- 104 Cady, *op. cit.*, p. 306; Mahajani, *op. cit.*, p. 74.
- 105 Cady, *op. cit.*, p. 306.
- 106 Burma was separated from India by the Government of Burma Act of 1935 which came into force in 1937. For particulars see Tinker, *op. cit.*, pp. 4-5.
- 107 Cady gives the years of the two issues of the book as 1931 and 1937 (*op. cit.*, p. 393) while according to Usha Mahajani the years are 1929 and 1938 (*op. cit.*, p. 79).
- 108 Cady, *op. cit.*, p. 393.
- 109 See Cady, *op. cit.*, p. 393; Mahajani, *op. cit.*, p. 79.
- 110 Mahajani, *op. cit.*, p. 79.
- 111 Cady, *op. cit.*, p. 394.
- 112 See *Ibid.*, p. 394; Mahajani, *op. cit.*, p. 81; Virginia Thomson and Richard Adloff, *Minority Problems in South East Asia*, Stanford University Press, 1954, p. 70.
- 113 Cady, *op. cit.*, p. 396.
- 114 *Ibid.*, p. 397.
- 115 *Ibid.*
- 116 *Ibid.*
- 117 For the debate, see *The Legislative Assembly Debates*, 1939, Vol. I, pp. 201-18, February 4, 1939.
- 118 *Ibid.*, p. 203.
- 119 *Ibid.*, p. 204. Mr. Sathyamurthi wanted that the financial agreements due to be entered into the next year should be concluded only if Burma guaranteed protection to Indians in Burma (*Ibid.*, p. 213).
- 120 *Ibid.*, p. 211.
- 121 He said: 'I should like to make an appeal to the good sense of all the people in Burma. I think they must realize that with the growth of nationalism in this country and with increased political power the welfare of our nationals abroad, whether in Burma or in Ceylon or in Malaya or elsewhere, is a constant concern of the people of this country

and that Governments here cannot allow the unredressed and legitimate grievances of our nationals abroad to go unchallenged.' (*Ibid.*, p. 216.)

122. The joint statement of the two delegations which negotiated the Agreement reads:
1. In two Reports issued at the end of 1938 and early in 1939, the Riot Inquiry Committee . . . drew particular attention to the existence of a serious apprehension in the minds of many Burmans that Indian immigration was largely responsible for unemployment or underemployment in Burma. The Committee recommended that, in the interests of both countries, some public examination of the grounds for existing apprehension in Burman minds should be undertaken urgently.
 2. Accordingly the Government of Burma . . . after consultation with the Government of India, appointed the Honourable Mr. James Baxter to examine the question of Indian immigration into Burma, with the assistance of two Assessors. . . Mr. Baxter presented his report . . . in October 1940. His recommendations were carefully examined by both Governments and it was agreed without commitment on either side that the recommendations formed a suitable basis for negotiation . . .
 3. As a result of the conversations the two Governments have agreed upon certain measures which in their view are calculated to remove from the Burman minds any reasonable apprehension that Burma may be subjected to undue economic competition by reason of Indian immigration and at the same time to secure for the Indian community settled and resident in Burma recognition of their legitimate rights.' (*The Legislative Assembly Debates*, 1941, Vol. IV, pp. 347-48, November 4, 1941)
123. *Ibid.*, p. 348.
- 123a. For text of the Agreement, see *ibid.*, pp. 348-56.
124. However a proviso was added thus: 'Provided that exceptions will be made of marriages entered into with the sanction of the Government of Burma and that such sanction will be given if the immigrant makes, before the proposed marriage, provision which is sufficient in the opinion of the Government of Burma for the maintenance of the woman whom he desires to marry.' (*Ibid.*, p. 354). Under the Burmese Buddhist law marriage is a purely civil institution in which religion does not play any part at all. Indeed no ceremony is necessary and no member of the Buddhist clergy officiates in the Burmese marriage. Cohabitation is sufficient to constitute marriage and Burmans have no prejudices against alliances with foreigners and their religion is no impediment to such marriages. Quite often foreigners in Burma (mainly Chinese) "cohabited" with Burmese women in this manner. But in these marriages the personal laws of the wife and the husband came into conflict, and often the wife found after the death of the husband that according to his personal law, the marriage was not lawful, and so never took place, and she was not entitled to inherit his property. Some judicial decisions had, however, the effect of ameliorating this tragic state of affairs to some extent. (See Maung Maung, *Law and Custom in Burma and the Burmese Family*, Martinus Nijhoff, The Hague, 1963, pp. 54-55, 61-66.)
125. See for details, Mahajani, *op. cit.*, pp. 91-92; Thomson and Adloff, *op. cit.*, p. 73.
126. *The Legislative Assembly Debates*, 1941, Vol. IV, pp. 69-70, October 27, 1941, p. 210, October 29, 1941.
127. For the debate, see *ibid.*, pp. 358-408, November 4, 1941.

128. For example Sir Abdul Halim Guznavi said: 'The story of separation of Burma from India is a very sad one. India did not want separation, Burma did not want separation, but the separation was wanted by our British friends for their own exploitation.' (*Ibid.*, p. 358.) He also said that the Government of Burma did not have the power to regulate immigration (*Ibid.*, p. 407).
129. The resolution passed by the Assembly read: 'That this Assembly being of the opinion that the provisions of the Indo-Burma Immigration Agreement are a violation of the assurances given in Parliament with regard to the status of Indians in Burma and their right to re-entry into Burma after its separation from India, inasmuch as they render nugatory the protection which Parliament undoubtedly undertook to give to in these matters. . . , recommends to the Governor-General in Council to request the Secretary of State not to implement the Agreement by Order in Council unless and until satisfactory modifications are secured, which will carry out, to the full, the parliamentary assurances. . . .' (*Ibid.*, pp. 408-409).
- 129a. See the speech of Mr. Anil Choudhry, *ibid.*, p. 363.
130. A European, Mr. F.E. James, said: 'Why should we assume for a moment that the Government of Burma will not be willing to regard these matters (discriminatory provisions) in a reasonable light, provided they are put forward in a reasonable way and not against a background of venom such as is evidenced in the speech of my Honourable friend, Mr. Jamnadas Mehta.' (*Ibid.*, p. 389).
131. Mr. Aney did not say a word in defence of Sir Girija Shankar, though the latter was bitterly attacked from many sections of the House, and Dr. Raja Sir S.R.M. Annamalai Chettyar had characterised the Agreement as 'an ill conditioned baby which Sir Girija Shanker Bajpai has left on my Honourable friend Mr. Aney's doorstep.' (*ibid.*, p. 372).
132. *Ibid.*, p. 401.
133. *Ibid.*, pp. 404-5.
134. *Ibid.*, pp. 405-6.
135. *Ibid.*, p. 401.
136. *Ibid.*, p. 403.
137. *Ibid.*
138. *Ibid.*, p. 404.
139. For details of the negotiations see Kondapi, *op. cit.*, pp. 205-6.
140. To a question why the Government of India did not send an observer. Dr. Khare, Member for Indians Overseas, gave the strange reply that it was due to practical considerations, as a trained officer could not be spared for paucity of hands. (*The Legislative Assembly Debates*, 1944, Vol. I, p. 90, February 8, 1944).
141. *Ibid.*, 1945, Vol. II, p. 1420, March 13, 1945.
142. Thomson and Adloff, *op. cit.*, p. 75.
143. By 1946, 61,160 had gone to Burma from India, of whom 49,745 were evacuees. *The Legislative Assembly Debates*, 1945, Vol. VIII, p. 168, October 29, 1946, statement laid on the table of the House.
144. See Mahajani, *op. cit.*, p. 153, footnote.
145. Thomson and Adloff, *op. cit.*, p. 82.
146. Indian interests were also looked after by the Swiss Government as a neutral power in Japan, occupied China, French Indo-China and Thailand (*The Legislative Assembly Debates*, 1944, Vol. I, p. 5, February 7, 1944).

147. See Lennox A. Mills, *Malaya : A Political and Economic Appraisal*, University of Minnesota Press, Minneapolis, 1958; pp. 21-24; see also *India in 1930-31*, p. 61.
148. See *India in 1930-31*, p. 62.
149. *The Legislative Assembly Debates*, 1931, Vol. I, p. 335, February 3, 1931. The figures for 1928, 1929, 1930 and 1931 (upto September) were, respectively, 18,147, 6,731, 77,761, 32,456. (*Ibid.*, 1931, Vol. V., p. 19, September 7, 1931).
150. See *India in 1933-34*, p. 68.
151. See Mahajani, *op. cit.*, pp. 122-26.
152. Mr. Nehru told the Indians in Malaya that the interests of the people of Malaya should take procedure over the interests of the immigrants. (*Ibid.*, p. 127).
153. *The Legislative Assembly Debates*, 1938, Vol. IV, p. 120, May 8, 1938.
154. Mahajani, *op. cit.*, p. 100.
155. *The Legislative Assembly Debates*, 1945, Vol. II, p. 1420, March 13, 1945.
156. By October 1946, 1,256 had returned (*Ibid.*, 1946, Vol. VII, p. 168, October 28, 1946).
157. Thomson and Adloff, *op. cit.*, p. 95.
158. Mahajani, *op. cit.*, p. 95.
159. *Ibid.*, p. 163.
160. While Azad Hind was the Government, I.N.A. constituted its army, and I.I.L. its political wing. I.I.L. was the first to be organized in 1942. For details, see *ibid.*, pp. 145-46, 148-49.
161. See *Ibid.*, p. 146; see also Thomson and Adloff, *op. cit.*, p. 98.
162. In Ceylon there was a gradual transition and Mr. D.S. Senanayake led the country before and after independence. In Burma too there was a gradual change from the time Dr. Ba Maw formed a government in 1937. Even though Burma passed into Japanese occupation during the War, the political continuity was maintained. On the other hand in the case of India, except for a brief period in 1937, the Indian National Congress, which spearheaded the political movement in India, was not associated with the governance of the country till 1946.
163. Moving a cut motion on the Demands for the Ministry of External Affairs, Seth Govind Das said: 'When I moved my first cut motion on the 14th March (i.e. in 1947) our country was not free. On the 4th December (i.e. when he moved his second cut motion) we were free and our brethren abroad expected that after our freedom we should be able to do something substantially for them, but I admit the problem is so complicated and ticklish that it is very difficult to say precisely what should be done in this respect. When I raise this question again on the floor on this house today I cannot suggest anything in particular which can be done, but I do so only to review the whole subject, so that we may jointly think and the Government may think with us as to what can be done. . . .' [*The Constituent Assembly (Legislative) Debates, 1948*, Vol. III, pp. 1750-51, March 8, 1948).
Mr. Nehru while replying to the debate said: 'It (the question of Indians Overseas) is far more complicated (than being a matter merely for the External Affairs Ministry) and when the time comes, if necessary, we are prepared to switch over to this or that policy, provided we are dead convinced that it is for the good of the country'. (*Ibid.*, p. 1771).
164. *Ibid.*, p. 1771.
165. *Lok Sabha Debates*, 1957, Vol. VI, Col. 11447, September 2, 1957.

166. *Ibid.*, Col. 11448.

167. *Ibid.*, Vol X, Col. 6011, December 17, 1957.

In this context the following resolution of the All India Congress Committee passed in 1945 is of interest:

'The A.I.C.C. believing as it does in the right of the freedom of all countries, holds that the people of each country have the further right to develop their own resources in such a manner and with such means as they think fit. Where Indian labour has been employed and Indian capital invested. . . their just interests should be properly safeguarded with due regard to primary claims and interests of the people of the country concerned'. (emphasis supplied). (See N.V. Rajkumar, *Indians Outside India*, All India Congress Committee, New Delhi, 1951, Appendix II, p. 54).

168. Mr. Nehru said: '(W)here any unfair treatment is given to our countrymen, then, of course, we protest, but even there we have to protest in a friendly way, we cannot issue threats. We refuse to do that' (*Lok Sabha Debates*, 1957, Part II, Vol. VI, Col. 11447, September 2, 1957).

168a. For details see Jeffries, *op. cit.*, pp. 57-69.

169. See Radhakrishnan, *op. cit.*, p. 498.

170. *Ibid.*, p. 500.

171. *Ibid.*, p. 500. See also in this connection Mr. K.P. Krishna Shetty's article 'The law of Citizenship, for Indian and Pakistani Residents in Ceylon,' *ibid.*, Vol. VII (1958), pp. 165-85.

Besides the citizenship laws, the Immigration and Emigration Act of 1948 also discriminated against the Indians.

171a. See for details of various cases that came up before the courts and the observations of judges in those cases, Radhakrishnan, *op. cit.*, pp. 506-12; Also see Mr. Krishna Shetty, *op. cit.*, p. 165-85.

171b. See Radhakrishnan, *op. cit.*, p. 499.

172. See *Keesing's Contemporary Archives*, Vol. IX (1952-54), pp. 12315-16. Referring to the *Satyagraha*, the Government of India said in an *aide memoire* to Ceylon: 'It is by the exercise of magnanimity and statesmanship that the Government of Ceylon can secure the co-operation and loyalty of the Indians who regard themselves as nationals of Ceylon, and who seek by peaceful and constitutional means to secure the fundamental democratic right to participate in the elections to the sovereign Parliament of the land of their adoption.' Ceylon replied that it would be advisable for the Government of India to 'restrain persons who still remain Indian citizens rather than advise the Government of Ceylon on the action they should take in certain eventualities.' At this stage the Government of India seems to have hesitated to back the claims of the Ceylon Indian Congress further. In a final note the Government of India said that it had never suggested that the disenfranchisement of Indians was deliberately done for the purpose of the forthcoming elections, and that India appreciated the goodwill of Ceylon (see *ibid.*, p. 12316).

173. For the text of the Agreement, see *ibid.*, p. 13441.

174. See *ibid.*, pp. 13782-83.

175. *Asian Recorder*, 1955, pp. 265, 378.

175a. See *Keesing's Contemporary Archives*, Vol. IX (1952-54), p. 13783.

176. See *ibid.*, p. 13868.

177. See, for details, *ibid.*, p. 13868.
178. Mr. Nehru said in Parliament: 'There is the problem ... of these persons (those whose applications had been rejected by Ceylon), who, at the present moment, can only be described as stateless. They are certainly not Indian nationals ... 'Now normally they would be Ceylonese nationals, but, of course, Ceylon has the right and authority to decide about the matter, about its own nationals ... So they (those persons) have become stateless people living in Ceylon and hoping for Ceylon nationality.' (*Lok Sabha Debates*, 1954, Pt. II, Vol. V, Col. 7509, May 17, 1954).
- 178a. *Ibid.*, 1955, Part II, Vol. II, Cols. 3903, 3904, March 31, 1955
179. See for details of the riots, Tarazie Vittachi, *Emergency '58, The Story of the Ceylon Race Riots*, Andre Deutsch, London, 1958. Also see *Keesing's Contemporary Archives*, Vol. XI (1957-58), p. 16373.
- 179a. For example, soon after coming into power, Mr. Bandaranayake, at a Press conference, refused to be drawn into a discussion of the problem, but said that, with his past friendship with Mr. Nehru, he hoped the problem would be settled (*Asian Recorder* 1956, p. 794).
180. When a press reported asked him about the Indian suggestion, he retorted: 'I expect my friend Mr. Nehru will appreciate this position in the light of his own attitude on Kashmir' (See *ibid.*, 1956, pp. 683, 817).
181. *Ibid.*, 1959, p. 2471. Mr. Nehru said in Parliament that at the suggestion of Ceylon, India had agreed to the provision, and when they removed it, India neither objected to it nor condemned it. (*Lok Sabha Debates*, 1959, Vol. XXXVII, Col. 4754, March 6, 1959).
182. *Asian Recorder*, 1961, pp. 3581, 4079.
183. *The Times of India*, January 14, 1964.
184. See *ibid.*, April 26, 1964. The Ceylon Workers' Congress advised the plantation workers of Indian origin to 'reject outright' the inducement scheme as it did not reveal a genuine desire on the part of the Ceylon Government to offer an overall solution to the entire problem, nor did it provide adequate facilities or means for rehabilitation even to those who might choose to avail themselves of the scheme (*The Hindu*, April 21, 1964).
- 184a. *The Hindu*, July 13, 1964.
185. Making a statement before the Lok Sabha in 1958, Mrs. Lakshmi Menon, Deputy Minister for External Affairs, said: 'In effect the persons who have been refused Ceylon citizenship have been rendered "stateless". They cannot become Indians unless they are registered as such. They could only be registered if they apply for Indian citizenship of their own free will and if they qualify under our laws.' (*Lok Sabha Debates*, 1958, Vol. XXII, Cols. 1447-1448, November 25, 1958).
186. Mr. Nehru said in Parliament in 1954: 'It (the question of Indian nationals) is bit of a problem too, because there is a certain process of squeezing them out. While I may regret the manner of doing it, I cannot challenge the right of the Ceylonese Government of dealing with any individual they choose to' (*Ibid.*, 1954, Pt. II, Vol. V, Col. 7510, May 15, 1954). Mrs. Lakshmi Menon said in 1958: 'The Government of Ceylon have the right to decide whether and for how long, they would allow the nationals of India or any other country to remain in Ceylon' (*Ibid.*, 1958, Vol. XXVIII, Col. 1445, November, 25, 1958).

- 187 Mr Nehru said in Parliament in 1953 'The difficulty of a place like Ceylon is the fear that Ceylon has of India. . . Here is a great big continent lying astride north of Ceylon and they are, I am sorry, I think unreasonably, just afraid of being swamped or swallowed by India or by the Indian people. . .' (*Ibid.*, 1953, Pt. II, Vol. II, p. 2237, November 25, 1953). Again, 'I have seen that the real difficulty one has to face is the psychological difficulty of the people of Ceylon. . . a fear that this great and big continent of a country might overwhelm them, and that fear and that apprehension comes in their way. So my efforts have been to try, in so far as I can, to remove that fear and apprehension from their minds.' (*Ibid.*, Col. 2238).
- 188 Wriggins points out that more time was spent in Parliament discussing the status of Indians, than any other single subject, and after 1956, 'the language question would have taken first honours' (Howard Wriggins, *Ceylon: Dilemma of a Nation*, Princeton University Press, 1960, p. 212).
- 189 The language agitation is only a part of a larger issue, namely, the Ceylon Tamils' struggle for survival as an ethnic and cultural minority against the onslaught of the Sinhalese. (See *ibid.*, for a learned discussion)
190. On the other hand, in the 1956 race riots, while many Ceylon Tamils were killed, no Indian was killed and only seven Indians were injured. (*Lok Sabha Debates*, 1956, Pt. I, Vol. VI, p. 1027, August 9, 1956).
191. *Asian Recorder*, 1958, p. 2324.
192. In November 1955 and April 1958, the Ceylon Democratic Congress passed resolutions demanding parity. In February 1961, Mr. Azeez, the President of the Congress referring to the Federal Party *Satyagraha* said: 'It is the fight of a people whose language and culture have been trampled underfoot.' (See *ibid.*, 1955, p. 497; 1958, p. 2006, 1961, p. 4007).
193. In 1958 when the Federal Party decided to launch a *Satyagraha* one of the objectives was the enfranchisement of the plantation workers of Indian origin (*Ibid.*, 1958, p. 2065).
194. *Ibid.*
195. *Ibid.*, 1955, p. 378.
196. *Ibid.*, 1958, p. 2006.
197. *The Hindu*, December 8, 1963.
198. In a Joint Communiqué issued after the signing of the Agreement, the two Prime Ministers said that '(i) in their search for a solution to the problem, the two Prime Ministers agreed to a fresh approach to the problem', and the talks were held 'in an atmosphere of mutual understanding', and 'with a sincere desire on the part of both Prime Ministers to arrive at a mutually satisfactory, equitable, and honourable settlement of the problem, without prejudice to their respective earlier positions.' (for the text of the Joint Communiqué, see *The Times of India*, October 31, 1964).
199. For the Text of the Agreement, see *ibid.*
200. *Ibid.*, November 9, 1964.
201. *Ibid.*, July 21, 1964.
202. *Ibid.*, September 12, 1964.
203. In 1953, when Mr Nehru and Mr. Dudley Senanayake had discussions on the question of Indians in Ceylon, at London, during the Commonwealth Prime Ministers' Conference, the number of Indians in Ceylon, according to Mr. Senanayake was 9,75,000 (See John Kotelawala, *An Asian Prime Minister's Story*, London, 1956,

pp 104-5. See also Radhakrishnan, *op. cit.*, pp. 512-13). Since 1953, according to Mrs. Bandaranayake, about 6,000 of them have acquired citizenship under the Ceylon Citizenship Act, 1,15,135 have acquired citizenship under the Indian and Pakistani Residents (Citizenship) Act and 1,31,878 have left Ceylon for good (*The Hindu*, November 11, 1964). These add up to 2,53,013 leaving a balance of 7,21,937. Allowing for natural increase and illegal immigration (which is next to impossible because of the measures taken against such illicit immigration on both sides of the Palk Strait and the provisions of the Immigration and Emigration Act throwing the onus of proof on the person charged of illegal immigration) the number of stateless persons in Ceylon should be around 7,50,000.

- 203a *The Hindu*, November 11, 1964.
- 203b Letter from Mr. Samarasekhara, the First Secretary to the Ceylon High Commission in India, *The Times of India*, November 20, 1964.
- 203c *The Hindu*, November 11, 1964.
- 204 See *ibid.*, December 4, 5, 10 and 17, 1964.
- 204^a *The Times of India*, August 15, 1964.
- 204^b *Ibid.*, September 8, 1964.
- 205 For details see Tinker, *op. cit.*, pp. 17-29.
- 206 In 1947 an official announcement said that the Burma Government 'welcome the presence in Burma of the Indian race, and regard them as an important element in the population of the country'. Though no reserved seats were given to them in the legislature, the political parties were expected to give them their due, and regarding government appointments, the Government assured them that it would provide fair opportunities for them 'to obtain their due share of appointments'. [*Keesing's Contemporary Archives*, Vol. VI (1946-48) p. 8886].
- 207 Mahajani *op. cit.*, p. 172. Many Indians who acquired Burmese citizenships seem to hold high posts in Government and to have led delegations to India (*Ibid.*, p. 182).
- 208 Mahajani, *op. cit.*, p. 180. By the end of 1961 only 6,800 had acquired Burmese citizenship, and 1,40,000 were registered as Indian nationals. (*Lok Sabha Debates*, 1961, Vol. XLVIII, Col. 4559, December 8, 1961). In 1960 about 24,000 citizenship applications were pending. (*Ibid.*, 1960, Vol. XL, Col. 4877, March 9, 1960).
- 209 Maung Maung, *Burma's Constitution*, Martinus Nijhoff, The Hague, 1961, p. 93.
- 210 *Keesing's Contemporary Archives*, Vol. XIII (1961-62), p. 18340.
- 211 *Ibid.*, p. 18391.
- 212 *Asian Recorder*, 1962, p. 4645.
- 213 Maung Maung, *op. cit.*, Note 209, p. 105.
- 214 There were 574 firms in Burma which held 1,000 acres and below with a total of 2,17,164 acres, and 482 firms holding more than 1,000 acres with a total of 1,501,401 acres (*Lok Sabha Debates*, 1954, Pt. I, Vol. I, Col. 481, February 27, 1954). The Chettinad Bank alone owned over 85,000 acres (Mahajani, *op. cit.*, p. 179).
- 215 Mr. Nehru's reply to a question in the Legislative Assembly [*Constituent Assembly (Legislative) Debates*, 1948, Vol. II, p. 864, February 18, 1948].
- 216 Perhaps the most compelling reason for the nationalization measure was the communist threat in Burma, and the Government's desire to take the wind out of the sails of the Communists by nationalizing land. (See Maung Maung, *op. cit.*, Note 209, p. 106).

217. Thomson and Adloff, *op. cit.*, p. 84.
218. *Lok Sabha Debates*, 1954, Pt. I, Vol. VII, Cols. 556-57, November 26, 1954. The Government of India sent a delegation to Burma as the compensation was found inadequate, but the Government of Burma 'did not see the way to increase the rate of compensation.' *Ibid.*
219. *Asian Recorder*, 1955, p. 909: 100 Kyats are roughly equal to Rs. 95.
220. In 1954, Mr. A. K. Chanda, Deputy Minister for External Affairs, said: 'It is a general law and there is no discrimination against the Indian land holders as such.' (*Lok Sabha Debates*, 1954, Pt. I, Vol. VII, Col. 557, November 26, 1954). In 1960 Mrs. Lakshmi Menon, Minister of State in the Ministry of External Affairs, said: 'Our nationals do experience a number of hardships as a result of the land legislations and various other legislative enactments in Burma which apply to Indian nationals and other non-Burmese nationals. Since there is no discrimination at all, there is no point in our taking up this matter with the Government of Burma. But where there is genuine hardship where our Mission could intervene, we have always taken up each case on merit.' (*Ibid.*, 1960, Vol. XLV, Col. 4747, August 25, 1960).
221. His answer was 'I am unable to say how exactly (sic.) what the attitude was in this matter.' (*Ibid.*, 1957, Vol. VI, Col. 502, November 14, 1957).
222. Evidently, the Indian minority in Burma, with the bloody riots of 1930 and 1938 fresh in their minds, did not want to antagonize the Burmese by supporting the Chettyars.
223. Mahajani, *op. cit.*, p. 176.
224. *Ibid.*, p. 177.
225. *Ibid.*, p. 179. It seems that even the bonds have not yet been given to the landlords, on the plea that they are yet to be printed. See Punyapriya Das Gupta, 'Inside Burma Today', *The Indian Express*, September 14, 1964.
226. The following figures about the compensation received by them were given in Parliament:

	Rs.
1956-57	44,13,575
1957-58	62,33,904
1958-59	49,39,665
1959-60	11,79,088
1960-61	6,65,851
Total	<u>1,74,32,084</u>

(*Lok Sabha Debates*, 1963, Vol II, Col. 2851, May 7, 1963).

227. For details see Mahajani, *op. cit.*, pp. 174-79.
228. *Asian Recorder*, 1962, p. 4849.
- 228a. *Ibid.*, 1963, p. 5351.
229. *Ibid.*, 1962, p. 4573.
230. *Ibid.*, 1963, p. 5121.
231. *Ibid.*, pp. 5169, 5242; See also T. Venkatavaradan, 'Political and Constitutional Developments in Burma,' *The Indian Year Book of International Affairs*, Vol. XII (1963) pp. 298-300.

- 232 *Asian Recorder*, 1963, p. 4621.
- 232a See *The Times of India*, March 20, 1964 and April 10, 1964.
- 232b *The Times of India* editorially commented: 'Though most of the commanding heights of the country's economy have already been nationalized, what makes last Thursday decree look rather sweeping is that for the first time the Burmese way to Socialism has sought to deprive the small man's business as part of national economic strategy.' (March 23, 1964).
- 232c See the statements of a spokesman of the Burma Displaced Persons Association (*Ibid.*, April 15, 1964 and May 11, 1964). Mr. Dinesh Singh, the Deputy Minister of External Affairs, said in Parliament that the assets were estimated to be Rs. 6 crores (*Ibid.*, April 29, 1964). But this seems to be a very conservative estimate. Further, Indians leaving Burma are compelled to leave property worth many crores more. (See *ibid.*, May 29, 1964, editorial).
- 232d The compensation payable for lands nationalized in 1955 and for banks nationalized in 1962 are yet to be paid in full. (See *ibid.*, May 7, 1964, editorial; *The Hindu*, May 31, 1964, editorial; K. Rangaswamy, 'Burma's Action Hits Indians Most,' *Ibid.*, May 10, 1964).
233. See *The Times of India*, April 8, 10, 15 and 29, 1964.
- 233a *The Hindu*, July 24, 1964. A widow who came by the ship stated that she purchased some sarees and other essentials out of Rs. 600 left to her by her recently deceased husband, but that these were confiscated by the Burmese customs authorities, *Ibid.* See also Das Gupta, *op. cit.*
- 233b See *Ibid.* May 21, 1964, editorial. Under the Demonetization Order of May 17, 1964 all those possessing 50 and 100 Kyats currency notes were to deposit them with the authorities and receive in return currency in lower denominations worth only 500 Kyats; *The Times of India*, May 19, 1964. The amount allowed in exchange for the demonetized currency was later reduced to 200 Kyats; *Ibid.*, May 21, 1964. Later, however, the full value seems to have been paid.
- 233c See *The Time of India*, June 2, 1964.
- 233d *Ibid.*, September 8, 1964.
- 233e *Ibid.*, September 6, 1964.
- 233f *Ibid.*, September 6 and 9, 1964.
- 233g K. Rangaswamy, 'Inside Burma Today,' *The Hindu*, September 16, 1964.
- 233h *Ibid.*
- 233i *Ibid.*
- 233j *The Times of India*, September 6, 1964.
234. Both the Prime Minister and the Deputy Minister for External Affairs tried at the earlier stages to take shelter behind this argument (see *ibid.*, April 29, 1964).
235. For details, see Rose, *op. cit.*, pp. 129-30; Mahajani, *op. cit.*, pp. 226-27.
- 235a Acquisition of federal citizenship did not bar the holding of the nationality of other states also. By becoming a federal citizen one did not become a subject of a Sultan. But without federal citizenship one had no political rights. (Kondapi, *op. cit.*, p. 418). But the following reply of Dr. Keskar, Deputy Minister of External Affairs, in Parliament, seems to completely miss the point: '... Malaya not being a country with international status, it is not in the power of the Malayan Federation to confer

- any nationality as long as it has no international status.' (*Lok Sabha Debates*, 1951, Part I, Vol. VIII, Col. 29120, April 6, 1951).
- 235b. For details see Mahajani, *op. cit.*, pp. 220-55.
236. Separate figures were not available (*Lok Sabha Debates*, 1952, Pt. I, Vol. I, p. 538, June 4, 1952).
237. *Ibid.*, 1960, Vol. XLV, Col. 4751, August 25, 1960.
238. See Mahajani, *op. cit.*, p. 203.
239. *Lok Sabha Debates*, 1956, Pt. I, Vol. VI, Col. 1249, May 14, 1956.
240. *Ibid.*, 1958, Vol. XVIII, Col. 1607, August 19, 1958.
241. *Asian Recorder*, 1960, p. 3300.
242. See Gordon P. Means, 'Malayasia—A New Federation of South East Asia', *Pacific Affairs*, Vol. XXXVI, No. 2 (1963), p. 140.
243. Richard Allen, 'Britain's Colonial Aftermath in South East Asia', *Asian Survey*, Vol. III, No. 9, (Oct. 1963), p. 411.
244. In 1930 about 24,06,000 Indians were settled abroad, of whom 23,05,000 were in the Commonwealth territories (*India in 1930-31*, p. 49).
245. Even as late as 1937, Sir Girija Shankar Bajpai intervening in the debate on a cut motion regarding Indians overseas said in the Assembly: 'The objective of that policy (i.e. regarding Indians abroad) Sir, in a word has been equality—equality both as regards the right of entry into the different parts of the British Empire, and equality in the matter of status after settlement in those different parts of the Empire.' (*The Legislative Assembly Debates*, 1937, Vol. II, p. 1596, March 8, 1937).
246. For example in 1922, the Government of India warned the Secretary of State that if, at the London Conference on the discriminatory laws of Kenya, the decision went against the Indians, there would probably arise a strong agitation for the severance of India's connections with the Commonwealth, and for the adoption of retaliatory measures against the colonies. (*India in 1923-24*, p. 11).
247. See Rajkumar, *op. cit.*, pp. 49-50.
248. *Ibid.*, p. 51.
249. Mr. Nehru said in Parliament, that the question was whether the law was specifically against the Indians or against all, in which Indians were also included. If all came under the law, then for India to ask for special treatment for Indians became difficult. But it often happened that there was no discrimination in the law, but in practice there was discrimination. In such event each case had to be taken individually. The law could not be objected to. (*Lok Sabha Debates*, 1960, Vol. XLV, Col. 4747, August 25, 1960).

Indian and Chinese Minorities in Burma and Malaysia: Retrospect and Prospect

R.G. SINGH*

CONCEPT OF MINORITY

Minority is a term used in several senses.¹ Here it refers to a non-dominant group or portion of a society which differs from the rest on one or more grounds such as race, religion, language or nationality and preserves or wishes to preserve its own identity. It is generally assigned a lower status and sometimes deprived of equal political, economic and social opportunities. The members of a minority group are generally viewed with suspicion and prejudices and subjected to exclusion and differential treatment. They lead somewhat segregated and self-contained life. Thus minority is a social group having following basic characteristics:

1. It is smaller than the majority.
2. Members of a minority differ on the basis of one or more grounds

* Teacher Fellow, Centre of the Study of Social Systems, Jawaharlal Nehru University, New Delhi.

- like race, religion, language or nationality from the majority of the inhabitants and it preserves or at least wishes to preserve its own identity.
3. The concept of minority involves sets of behaviour like self-segregation from within and exclusion and differential treatment from outside. The majority harbours suspicion and prejudices against the minority. As a result, majority-minority relations invariably involves some sort of mutual conflict.
 4. Minority is a subordinate group. It lacks in power. It is generally given a lower status in some or the other area of intercourse like economic, political, social and legal. More often minority people are not given entry in majority's organizations and fail to avail the status which the majority avails. They are generally deprived of enjoying full political privileges. They are mostly assigned to a lower occupation or a lower position in an occupation.
 5. The members of a minority group identify themselves on the above counts and are identified by others on their prejudices. A minority may be an indigenous group or alien.

Taking the above points into consideration the two communities—Chinese and Indians may fairly be regarded as minority groups in both the countries—Malaysia and Burma. Malaysia is predominantly populated by Chinese whereas Burma by Indians, although the two constitute significant minority groups in both of them.

OBJECT OF STUDY

Indian and Chinese had been two major immigrant groups in South East Asian countries since ancient times. However, especially during the colonial period their movement towards South East Asian countries in general and Burma and Malaysia in particular accelerated. In due course many of the migrants settled in these two countries. But their settlement while on one hand solved their dilemma by ultimately fixing their loyalties to the land of their adoption, on the other, gave rise to many problems, prominent among them is the problem of their adjustment with the local community. More precisely the object of this paper is to examine the major problems of Indian and Chinese communities in the social and cultural milieu of the new land in which they live, and to make a comparative study of each in the two different settings. The analysis is based on secondary sources, and adopts a socio-logical perspective in so

far as it deals the problem in a framework of inter-group relation. The focus here is on the mutual relationship between the two, the majority and the minority groups in their various spheres of life. While doing so the relevant social processes such as conflict, accommodation and assimilation have also been taken into account.

POPULATION

Malaysia

There are some 4.0 million Chinese living in Malaysia out of these some 3.7 millions live in Peninsular Malaysia only.² They formed dominant minority groups constituting 34.14 per cent of the total population.³ Thus it consists of the largest overseas Chinese population. Indians constitute the second largest minority group having about 9 per cent of the total population.⁴ They are 1.1 million in number.⁵ The percentage of Chinese in the total population increased in 1970 as compared to the 1921, roughly to the extent (5 per cent approx.) the Indian proportion decreased. The Chinese population has in fact, consistently increased since 1921.⁶ Although the rate of growth of Chinese population during 1921-47 was much higher whereas in the later period it slightly diminished.⁷ This is because there had been large scale immigration of Chinese during 1921 to 1940. But thereafter their free immigration was put under effective control. The Indian population had also increased between 1920-31 but it declined significantly during 1931-47 following the restrictions imposed in 1931 and due to the Japanese occupation.⁸ It shows that a large number of Indians repatriated during the Second World War.

Burma⁹

Although Burma had a long common border with China, nevertheless it has the least Chinese population as compared to other South East countries. As per 1931 census the Chinese were 193,594 in number. In 1947 their number was estimated to be 300,000.¹⁰ The present estimated population of Chinese in Burma is 350,000.¹¹ Unlike in Malaysia Indians formed the largest alien minority in Burma. In 1931 there were 1,018,825 Indians, nearly five times the number of Chinese in Burma.¹² The Indian population during 1921 to 1931 went on increasing steadily but thereafter it greatly diminished. It was mainly because in 1931 Burma was separated from India and the hitherto free access of Indians in Burma was hampered. On the other hand the Chinese number in Burma went on

increasing continuously.¹³ It so happened because the Burma government on one hand enforced Emergency Immigration Act, 1947 and applied strict measures to restrict further Indian immigration while on the other it exerted high pressure on Indians to migrate back to their home land. But in the case of the Chinese, until quite recently, the Burma government was non-serious to check their flow and the immigration act 1947 was also loosely applied to them. However, by now the Indian population in Burma is estimated to be 1,650,000.¹⁴

CHINESE

About 15 million Chinese are nowadays living in the South East Asian countries, constituting the largest minority group in the area. Except in Burma they generally occupy dominant position in national affairs as compared to other immigrant minorities.

Chinese in Malaysia

Chinese in Malaysia are mostly concentrated in towns, tin mines or new settlements.¹⁵ They are not only numerous but economically and culturally strong too. In fact the Malaysian economy is in the Chinese 'grip'. They own oil mills, biscuit factories, rubber works, iron foundries, saw mills and sauce factories. The growing pineapple industry, cured and dried fish trade, pig and poultry rearing are also mainly in Chinese hands. They are running shipping companies, motor agencies, repair shops and laundries.¹⁶ They also dominate in commerce especially in retail trade. The Chinese constitute dominant labour force particularly in tin and few other minings like coal, gold and iron.¹⁷ But the Chinese economic interest and hitherto dominance have been greatly threatened with effect from the enforcement of the New Economic Policy (NEP) at the implementation of the second Malaysian Plan in 1971. The plan laid down as its major goals, to reduce and eventually eliminate the identification of race with economic function.

Chinese in Malaya and Singapore had become politically active since early twentieth century. They had been very closely related to the Chinese revolt from 1895 to 1912. In 1906 Dr. Sun Yat Sen founded a branch of Tung Mang Hui at Kuala Lumpur. During her rule the British colonial government all along attempted to suppress the movements launched by the various left-oriented political organizations of Chinese. Important among such suppressive measures are dissolution of all registered branches of pro-Kuomintang (KMT) organizations in 1922, imposition of emergency (1948) and disbandment of Malayan Peoples

Anti-Japanese Army (MPAJA) and other communist supported organizations in order to fight against the communist terrorists. Such measures led to the Chinese to come closer to the local Malays and gain their support and confidence, with the result that the Malay Chinese Association somewhat liberal in nature, was set up in 1941 and a coalition, called Alliance Party, with the United Malaya National Organization (UMNO) as major and Malayan Chinese Association (MCA) and Malayan Indian Congress (MIC) as minor constituents, was formed in 1953. Broadly speaking the coalition came into existence with a view to oppose the extremists Malays and Chinese and also to meet the Challenge to racial unity as a prerequisite condition for obtaining freedom from the British. Till the first election which was held in 1955 the members and leaders to national legislative council used to be nominated. The alliance party won the thumping majority at 1955 poll and a cabinet headed by Tengku Abdul Rahman was formed. It consisted of six Malays, three Chinese and one Indian.

In 1957 Malaya became independent. With the fall of colonial power, national unity, formed to fight against the former, weakened and in its place ethnicity assumed greater importance.¹⁸ A new Constitution giving rise to certain special rights to local Malays, such as right to land, to hold certain administrative posts, grant of stipend to students, etc., was adopted.¹⁹ Islam was declared as a national religion but freedom of worship was granted to others. Malay became official language. In return certain citizenship concessions were given to non-Malays. But the new Constitution instead of bringing harmony and strengthening co-operation among the Malays and Chinese created suspicion and widened the gap between them. Kim characterized the Malays special right policy as a communal policy and commented that it symbolises a Malay identity in the country and its political system but implies that non-Malays are not first class citizens. Thus a feeling of alienation towards the system becomes inevitable, as the Chinese do not feel that Malaysia is their homeland even though they were born there.²⁰ While Chinese economic dominance caused envy among the Malays, the discrimination and deprivation brought forth by the new constitutional measures raised resentment among the Chinese against Malays which ultimately resulted into a serious racial riot on May 13, 1969.²¹ The major dilemma that led to the racial disharmony and serious conflict were while the Malays were looking toward to a winning result in the second general election, the MCA, a Chinese constituent of the alliance party, lost a significant number of its seats to Chinese extremists such as Democratic Action

Party (DAP) and Gerakan Party. The Malays feared that along with the economic domination the political power may also pass to Chinese hands and that ultimately they would be reduced to aliens in their own land. The Chinese, who by virtue of their hard work, hitherto thought themselves as the makers of the modern Malaysia, not only resented the civil discrimination and grant of special privileges to Malays, but also feared that even at the risk of the civil deprivation they might be losing their economic domination under the present constitutional provisions. Apart from the special privileges conferred to Malays in the new Constitution major reasons for growing resentment among the Chinese were the rise in the strength of Malays extremists, Pan Malaysian Islamic Party which won in Kelantan, citizenship restrictions and the Malayization of education and language. Chinese asserted Malaysia for the Malaysians instead of the discriminatory notion put forward by the Malays as Malaysia for Malays.²² This raised mutual suspicion and hostility between the two communities which ultimately culminated in racial riots of 1969. The Parliament was suspended and an emergency was imposed.²³

However, on February 21, 1971 the Parliament was reconvened with Tun Abdul Razak as leader and the coalition began to work together again. By 1974 national alliance party gave way to few more political groups such as Peoples' Progressive Party Gerakan etc., into it. The new alliance is now known as BARISAN NASIONAL.

After 1969 racial riots, the need to construct a national policy instead of seeking interests as Malays, Chinese and Indians alone was seriously felt by all the three major constituents of the Malaysian population; with the result that the New Economic Policy (NEP) was designed with a view to bridge the gap lying in the economic status of the three communities.²⁴ Only time will say how far the NEP succeeds in removing poverty and correcting economic imbalance as its laid down goals, without initiating any resentment especially among the minority communities²⁵ on account of the loss they suffer in their economic interest under it,²⁶ without any hope that their further civil discrimination and deprivation at the hands of politically dominant Malays majority would cease or at least lessened. But on the one hand the new trends such as increase in the terrorist activities shows that the MCA has not succeeded much to exert her influence over its Chinese section while on the other hand the appointment of Dr. Mahathir Mohammed, a strong Malay extremist inside the coalition as Deputy Prime Minister in the Ministry of Datuk Hussain Onn may raise suspicion in the minority sections. Kim observes

that the post-colonial era (in Malaysia) saw the emergence of narrow nationalism based on race, religion and ethnocentric culture rather than the creation and acceptance of a common philosophy which could cut across the race line and render possible the integration of all the ethnic communities.²⁷

The immigrants enjoyed social and cultural freedom unless they flouted the authority or interfered with other groups during the colonial period. In order to bring all the communities under uniform colonial control, they had also to adapt to the general colonial set-up developed along the English framework. In the process of adapting to the new socio-political set-up, the migrants showed higher acquisitiveness and readiness in taking risks and also they worked very hard. As a result they occupied a higher position than the local Malays. The Chinese in a sense were either closer to the indigenous people as the inter-marriages and acculturation among the two were relatively higher. Yet the religious difference and racial orientation produced enough resistance to check their local assimilation. They however possessed with them their parent identity and loyalty.²⁸

Until recently the Chinese communities in Malaya suffered highly with the immoral traffic of women and girls and prostitution. Such problems grew because of prevalence of polygamy and preponderance of men over women.²⁹ Likewise the poor condition of *Muitsai*³⁰ or semi-slave girls and opium addiction were other social setbacks to them. After 1930 the brothels were disallowed to continue and the prostitutes were prohibited to enter in the Peninsula. The immoral traffic of women was controlled and opium was also prohibited in 1943.

Earlier than 1930 the majority of Chinese children in Malaya were receiving education in their mother tongue and were taught the books imported from China.³¹ It is in the later period, especially since 1955, that due to a change Peking's policy towards the education of overseas Chinese, Chinese control could be lost. After the independence, as said earlier, the Malay has become the national language and a potent media of education throughout Malaysia.

CHINESE IN BURMA

In Burma Chinese never occupied predominant position, rather they were second to Indians.³² The major portion of the Burmese economy before independence or even before army occupation (1962) was under control of Indians and Europeans. Nevertheless, Chinese had some hold

in rice, timber, salt manufacture, sale of petroleum goods and retail trades. Moreover, except for a few engaged in tin mining, furniture-making and leather industry, Chinese had never been an important labour force in Burma. They were hardly engaged in agriculture. The major occupation of Chinese in Burma had been carpentry, metal and leather works, semi-skilled labour and clerical jobs.³³ However, Chinese in Burma economically prospered after many of the Indians engaged in trade, commerce and shopkeeping, left for India during and after the Second World War.

Chinese being small in number were never been politically important in Burma. However, they were shrewd enough to keep themselves away from the national politics before or after independence or during Japanese occupation. They rather concentrated on economic gain or in seizing opportunities evacuated by Indians.

Chinese in Burma fail to exert any significant pressure on the local population. They are scattered instead of being exclusively concentrated on China towns. In Burma they are hardly considered as a threat rather they are identified as *Pauk Paw* next to kin by the local Burmese on the basis of the social similarity with them.³⁴ In return they adopted the country as their home to a greater extent than the Indians, their major counterpart in Burma, or Chinese in Malaysia through more frequent inter-marriages, greater adoption of local custom, dress, language and values.³⁵

As regards education, until quite late the education of Chinese in Burma, likewise Malaysia, was patterned in the line of China. But after army occupation in 1962 major private schools were nationalized and the education was patternized on national pattern.

INDIAN

Some 1.5 million Indians are nowadays living in South East Asian countries. In fact, India's contact with South East Asian countries is very ancient. It culturally dominated the whole area and exerted great pressure till the reach of Islam or stepping of the West. Yet in modern period large scale immigration of Indians began since the British conquered Burma (1824-85) and annexed it to India. Since then Indians in Burma had undergone many ups and downs.

Indians laid the foundation-stone of modern Burmese economy. In the making of Burma, in its industrialization, socio-political awakening and

also in its reconstruction after British reoccupation, Indian resources—money, materials and men were highly utilized. In Malaysia Chinese contribution was confined to urban development alone whereas in Burma, Indian, although they had their interest, worked simultaneously for urban as well as rural development.

In general, three classes of Indians came to seek their future in Burma:

1. Business Class

This is the smallest group of Indians constituted mainly of high Chettians and Parsis who were expert in trade, banking, commerce and industry. They occupied higher economic status.

2. Service and Professional Class

It consisted of intellectuals like teachers, doctors, engineers, lawyers, clerks, administrators, and soldiers, army staff who came to serve there.

3. Labour Class

More than 90 per cent of the Indians belonged to this class. They were mostly illiterate low-paid manual labourers.

Occupationally, Indians were mainly engaged in agriculture, industry, transport, trade commerce, exploitation of minerals and public administration before Burma was separated from India.³⁸ During British period the labour force of Burma was predominantly Indian. They also occupied high places in trade and commerce. The foreign trade was mainly controlled by them. Moreover, they played no less an important role in local trade and agricultural development. The retail trade in Rangoon and other cities was mainly in their hands. They were the owners of rice, sugar, saw, cotton and oil mills. Barring British and other European firms rest of the shipping as well as banking was owned by Indians.³⁹ A large sum of total investment in 1941 in Burma, roughly some 3,000 million rupees was from Indian side.⁴⁰

There was no option left to Indians than to co-operate with Britishers in strengthening their rule in Burma. But Burmese misunderstood the whole affair and developed much resentment against Indians for their own subordination which in their view, at that time, was due more to Indians than the British. As a result, instead of appreciating Indians's role in their economic development and freedom movement the latter developed strong anti-Indian attitudes and turned to aggressive

nationalism and displayed professional jealousy, racial hatred and communal riots against them.⁴¹

Till 1922 when Burma was a part of India or even under dyarchy (1922-36) Indians enjoyed freedom and their interests were very much safe. It is since 1937, when Burma after separation from India got autonomy, the interests of Indians began to decline.⁴² Further immigration was restricted and ultimately stopped. The Land Tenancy Act (1938 and 1949), the Land Alienation Act (1948), the Burma Land Purchase Bill (1941), Land Nationalization Act (1753) and such other legal measures in due course devalued Indian property and deprived them of their hitherto legitimate income.⁴³

Indian community in Burma underwent a mass-scale suffering mainly on four occasions—(i) Violent unrest against Indian labourers 1930, (ii) anti-Indian riot in 1938, (iii) Japanese attack (December 1941) followed by withdrawal of Indian army, and (iv) civil strife followed quite close on the heels of the independence in 1948.⁴⁴ Separation of Burma from India was followed by serious anti-Indian riots in 1938 i.e. about eight years after the labour riot of 1930, due to long accumulated anti-Indian feelings and sentiments. The riot resulted in hundreds of deaths, thousands of injuries and a heavy loss of property to Indians. Indians comprised larger population in Rangoon.⁴⁵ When Rangoon was bombed on December 23, 1941, Indians deprived of their property and possessions, marched for shelter to India and suffered many hardships in the way. They were intimidated, looted and insulted as soon as the Indian army was withdrawn.⁴⁶ But soon after the Japanese army reached, the situation was brought under control. It is then that Netaji appeared on the scene calling Indians for unity to fight against the British under the flag of Indian National Army (INA).⁴⁷ The Indian's political organizations in Burma like Burma Indian Congress (BIC) and Burma Moslem League (BML) actively supported Anti-Fascist Peoples Freedom League (AFPFL) in its struggle for the liberation of Burma against the British colonial rule. The co-operation of Indians in the freedom movement along with significant decline in their hitherto hold over national economy and labour, tended to reduce anti-Indian attitude among Burmese by the close of World War Second (1945), yet their loyalty to Burma was viewed with suspicion.⁴⁸

After independence especially since the coming into power of the Ne Win revolutionary council (1962) Burma Indians were given last decisive stroke, with the result that whatever they could succeed in saving from the ruins of war and riots, they ultimately lost. Parliament

was dissolved and the constitution was suspended. The council dissolved private enterprise and introduced so-called Burmese ways to socialism. This was followed next year by the nationalization of a large-scale private property (all foreign private banks were nationalized) nationalization of British oil and mineral capitals, nationalization of foreign and domestic wholesale trade, etc. Nationalization thus embraced not only production trade, bank, mines, but also transport, cinema, newspapers, press and schools. Although agriculture remained under private sector, the council enacted laws that forced the landlords, a large number of whom were Indians, to lose control and income over their land and virtually become powerless.⁴⁹ It is however difficult to say what motivated Burmese to resort to a mass scale nationalization and how far they succeeded to achieve their goals. But they at least succeeded fully in destroying the foreign economic hold and eliminated wholly the Indian trading community from their land.

In matter of citizenship too, injustice was done to many Burma Indians. Many were denied citizenship, while many others were registered as foreigners. Accurate figure is although not available yet some 400,000 Indians in Burma who constitute the largest group of stateless people in South East Asia are estimated to stand nowhere.⁵⁰ They are deprived of civil rights and had no claim to any official job in the country. They are almost disallowed to carry business of their own and to buy and sell property of their own.⁵¹ The Indian Government in fact failed to raise Indian's problems in Burma and to get them compensation for the loss they suffered. While examining the case of Nan Yang Chinese, Victor Purcell, for instance, has rightly commented that unlike the People's Republic of China in case of its overseas population the Government of India has done nothing to cultivate or encourage the Indians of Burma.⁵²

In some way Indians deserved the loss and sufferings they met in Burma, they ruthlessly exploited Burmese, both economically and socially during their high time. But such people were few in number and they intelligently escaped. Unfortunately it is the general mass, innocent and poor who underwent sufferings at their cost.⁵³

Indians in Malaysia

Indians occupied a much more inferior place in Malaysian economy than the Chinese. In modern period they generally came to Malaya as labourer.⁵⁴ Except a few Malyalis, Christians and Bangalis who were taken into clerical or professional jobs and some others who entered in Business, rest of the Indians (more than 90%) belonged to labour class.⁵⁵

working mostly in rubber plants.⁵⁶ Few Chettyars and Sikhs were money-lenders.⁵⁷ Generally people under business and the professional sector were drawn from the North India, whereas those of labour sector from South.⁵⁸ Indian labourers in Malaya suffered a lot especially during the Second World War. Rubber export were reduced during the war and the labourers, majority of whom were Indians, became unemployed.⁵⁹ During the Japanese occupation (in 1942) labourers were compelled to work on Death Railways in Thailand and out of them 73,503 of whom 85 per cent were Indians. Many died during the work.⁶⁰

Indians in Malaya are a self-contained and politically weak community.⁶¹ Their social and cultural heterogeneity had been a great hindrance in their way of being politically and economically organized like Chinese. In fact, it was a leaderless community till the formation of Central India Association of Malaya (CIMA) in 1936.⁶² This unity was later strengthened with the formation of Indian Independence League (IIL), Netaji's call for organizing the people into Indian National Army (INA) in 1943, and Nehru's efforts towards the formation of Malayan Indian Congress (MIC) in 1946. The MIC, as said before, later joined UMNO and MCA in 1954 to form a coalition. Since then it, as a major representative political body of Indians, has been working side by side with other participants in the Alliance, earlier for the freedom movement and now in nation-building.

Likewise the homeland, the Indian population in Malaysia as well as in Burma consisted of extremely heterogeneous and fragmented ethnic, religious and linguistic composition.⁶³ The majority of them lived in towns or on rubber estates. They preserved their own languages, customs and culture.⁶⁴ Except the Indian Muslims who on religious matters are closed to Malays, rest of the Indian population hardly mix with Malays or others through inter-marriage or enter into other close social ties.⁶⁵ They are least assimilated with the indigenous population.⁶⁶ Although they have adopted Malaysia as their homeland yet they hitherto fail to cut their ties off with their homeland. A majority of Indians in Malaysia, especially those working on rubber plantation, as observed by Jain, had been close to Dravida Kazhagam (D.K.) and Dravida Munnetra Kazhagam (D.M.K.) movements of South India. They collect literature from India and run organization like pan-Malayan Dravidian Association based on such ideological lines.⁶⁷

SUMMARY AND CONCLUSION

The post-independence minority problem in the two countries are to a great extent, result of long accumulated hatred and ill feelings for them

among the indigenous people, inherited from the colonial past. Although Indians held dominance in labour, economy and administration, they were hardly sufficiently strong enough in number or as much organized to accumulate power on their own and to become a potential resistance for the Burmese. They suffered a lot and shrunk in number and economic power, which they held till Burma became independent; to the extent that they now remain no more a threat and subject of hostility for the Burmese. Indian community in Burma declined in status and also in strength so much so that it now ceases to assert its interests any more. Thus by now there is no more a problem of immigrant minority in Burma rather it is of ethnic minority. But in Malaysia the condition is just reverse. Chinese, being the major immigrant group are no less in number to be suppressed by the indigenous people. Combined with Indians the two minorities have almost outnumbered the Malays. Chinese had been a potential menace and hence generally a subject of restrictions and surveillance in South East Asian countries except Burma where till quite late they were regarded as kinsmen. But Chinese withstanding restrictions and control prospered. They were shrewd enough to utilize resources left unutilized by the natives. In Burma they quickly seized the business and trade which were evacuated by Indians. In Malaysia they, however, managed to keep their sway over the national economy even though a number of constitutional and other measures were taken to hurt their post-dominance.

The multi-racial experiment as a solution to the racial hatred and conflict resulted in a serious failure in a plural society like Malaysia. Majority of the electorate voted on racial or communal ground in the past three elections and that the efforts to secure voting on a secular line were failed.

Indian community in general is transient and homesick. It is also non-adaptive and self-contained. Moreover, being heterogeneous in nature, its loyalty is spread on ethnic, caste, religion or language issues. As a result Indians failed to unite in order to protect and enhance their interests unlike those of Chinese in the new lands. However, as individuals, Indians have achieved no less status, power and prominence than their counterpart, Chinese, but as ethnic group the latter proved to be much organised, enterprising and shrewd. The Chinese showed a far greater self-dependence than the Indians. Indians instead of organising themselves for their betterment always looked for the British help and protection. In a way it was natural too. Although all the three countries India, Burma and Malaysia were British colonies yet India had a greater

say, because it is from India and with the help of Indians that the British advanced and controlled the whole of this area. But soon after the British departed from the two countries the fate of overseas Indians passed into the hands of nationalists. Moreover, there was not any sort of help or encouragement from the government or people of India to boost them in the new lands. Chinese on the other hand usually met with harassment instead of help from the colonial government and hence developed self-reliance. Moreover, they received almost all-round support from the People's Republic of China to build and protect their interest and power in the new lands.

On the basis of above discussion we may conclude that the problem of minority originate from seeking priority of interest and domination of one group over the other. The more the dominance is sought by a majority the more the resistance is met from the minority. In case the suppression exceeds to outbalance the resistance offered to it, the latter either surrenders as in case of Burma or sometimes it is assimilated. Assimilation may however take place without use of any kind of pressure. But if the minority is no less powerful the force seeking dominance reduced and the two usually come to enter into a coalition bargaining their due shares as it happened in Malaysia. On the other hand, a minority seeks to maintain her own identity and loyalty and any effort to eliminate or reduce its interest is viewed with suspicion and create hostility in them. The problem of mutual adjustment between the two—the majority and the minority—also become acute when self-assertion on the part of the latter goes beyond the intransigence. Substantively, if there had been no deprivation or discrimination and a policy acceptable to both of them would have been followed there could hardly have arisen any problem of minority as such. Sufficient facts are there to apprehend that as long as alien power ruled the two countries under study the problems of minority were rather simple. But as soon as nationalist grew in power, the problems multiplicably increased. The majority being larger in number and also sons of the soil, claim for superior political and economic power depriving the minorities of their legitimate claim. Whereas in some cases a majority also considers it culturally superior to the minorities. As in both the cases, transfer of power to the indigenous people resulted in aggressive nationalism which ultimately gave rise to an increase in prejudices, suspicion and mutual hostility and made their adjustment more difficult.

Experiences tell that nowhere suppression succeeded in bringing about any good in the past. It is only in the harmony that the human—the individual and the collective goals, can better be achieved. For

developing and creating mutual co-operation and confidence and for harvesting its fruits both, the majority and minority have to sacrifice.

The author is thankful to R.G. Menon for valuable comments on our earlier draft of this paper.

NOTES AND REFERENCES

1. The sub-commission of United Nations on prevention of discrimination and protection of minorities identifies minority on the bases of physical and social differences. According to it, the term minority includes only those non-dominant groups in a population which possess, and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population. Human Rights Year Book, 1950, quoted by Kamlesh Kumar Wadhwa, *Minority Safeguards in India*, Delhi, Thompson Press (1947), p. 3.
Arnold G. Ross, for instance, has taken into account the feeling of differentiation among the two groups—majority and minority, along with the bases of differentiation in them. He says: "contemporary sociologists generally define minorities as a group of people differentiated from others in the same society by race, nationality, religion or language, who both think of themselves as a differentiated group with negative connotation." *International Encyclopedia of Social Sciences* Vol. 10, p. 365.
2. Asia 1979 Year Book, *Far Eastern Review*, Hong Kong, 1979, p. 242.
3. *South East Asian Spectrum*, Vol. 2, January 1964, p. 36.
4. *Ibid.*, p. 36
5. Asia 1979, *op. cit.*, p. 242.
6. Alvin Rabushka: *Race and Politics in Urban Malaya*, Standford, Hoover Institutions Press, 1973, p. 21.
7. *Ibid.*, p. 21.
8. *Malaysia 1975*, Kuala Lumpur, official year book 1977, p. 22.
9. In case of Malaysia the official population figure of minority communities are available whereas for Burma no reliable source of information is there for the period after 1931 and that for our purpose we relied upon estimates furnished by various sources.
10. Victor Purcell : *The Chinese in South East Asia*, London, Oxford University Press, 1965, pp. 41, 43.
11. *The Europa Year Book*, Vol. II, 1978, London, Europa Publication, 1978, p. 48.
12. S.B. Mookherji, *Burma and the West*, Agra, Rajan Prakashan, 1975, p. 114.
13. Purcell, *op. cit.*, p. 44.
14. Computed from the estimated population of Indian and Chinese, Asia 1979, *op. cit.*, p. 158 and Chinese population as given in *The Europa Year Book, op. cit.*, p. 48.
15. Usha Mahajani, *The Role of Indian Minorities in Burma and Malaya*, Bombay, Vora and Company, 1960, p.110.
16. *Ibid.* pp. 110-11.
17. Purcell, *op. cit.*, pp. 282-93. See also Victor Purcell : *The Chinese in Modern Malaya*, Singapore, Eastern University Press, 1960, pp. 23-25.

18. Judith A. Nagata : Perception of Social inequality in Malaysia in Judith A. Nagata ed. *Contributions to Asian Studies*, Leiden, E.G. Brill, 1975, p. 119.
19. She Poon Kim observes that special privileges right is discriminatory and it is passed at the expense of Chinese in Malaysia. *The Roots of Sinophobia in the Asian countries: a comparative perspective*, *Occasional Paper*, No. 74, *Institute of Humanities and Social Sciences, Nanyang University*, August 1977.
20. *Ibid.*, p. 21.
21. It was lack of social justice, economic opportunities and political participation only which increased social tension leading to racial violence which finally culminated in the May 13, 1969 riot, *ibid.*, p. 6.
22. *Ibid.*, p. 16.
23. John Slimming; *Malaysia—Death of Democracy*, London, John Murray, 1969. See also Alvin Rabushka, *Race and Politics in Urban Malaya*, Stanford, Hoover Institution Press, 1973.
24. The second plan revealed that 5% of the corporate sector belonged to Malaya, 22.8% to Chinese and 6.2% to foreigners. Alex Lee, *Chinese and Malays Dilemma*, *Pacific Community*, April 1972. The plan (NEP) set out as its target that by 1990 the equity ownership of the corporate sector would be changed: 30% for Bumiputras, 40% for other Malaysians and 30% for foreigners. Mohammed Zain Bin Haji Abdul Majid, *Progress and Problems of industrial development since the second Malaysian plan, unpublished paper presented at the fourth Malaysian economic convention, Kuala Lumpur, 1977 (May 19-21) pp. 1-2.*
25. The Quasi-insurgency, says Zakaria Haji Ahmad, has its roots in the ideology of the dissidents and although there may be credence in imputing perceptions of deprivation of wealth in an area of growth to the members of CPM and its splinter factions it is more likely that the sinews of the insurrectionary movement are based on ethnic grounds, that is perceived on the part of the largely non-Malays insurgents a Malay—dominated polity offers little hope for the non-Malays. Certainly in terms of redistributive justice, growth as concomitant of the NEP is perceived as beneficial to the Malays and less to the non-Malays. *The Politics of Growth in Malaysia—Destabilizing Democracy—unpublished seminar paper, Vth Malaysian economic convention, Penang, 25-27 May, 1978, pp. 9-10.*
26. She Poon Kim refers the second and third five-year plans as based on communal calculations in favour of the Malay community, *op. cit.*, p. 20.
27. *Ibid.*, p. 5.
28. Howells study, for instance, reveals that the Chinese of Singapore and Malaysia have greater commitment to China and lower compatibility in attitudinal pattern with their indigenous population than Chinese of other South East Asian countries. L.W.D. Howell, *The Chinese in South East Asia: China commitment and local assimilation*, *Asian Studies* 11(3), 1973, pp. 37-53.
29. Purcell, *op. cit.*, p. 222.
30. *Muitsai* the term was applied to a girl who had been transferred from her own family, either directly or through a third party to another family with the intention that she should be used as domestic servant not in receipt of regular wages and not at liberty to leave her employer's family of her own free will or that of her parents, Victor Purcell, *op. cit.*, p. 275.
31. Purcell, *op. cit.*, p. 280.

32. *Ibid.*, p. 45.
33. *Ibid.*
34. *Ibid.*, p. 70.
35. *Ibid.*, p. 69.
36. Mookherjee, *op. cit.*, p. 134.
37. *ibid.* pp. 124-27, see also Chakravarti, *op. cit.*
38. Mookherjee, *op. cit.*, p. 129.
39. *Ibid.*, p. 126.
40. N.R. Chakravarti, *Indian Minority in Burma*, London, Oxford University Press, 1971.
41. *Ibid.*
42. Mahajani, *op. cit.*, p. 67.
43. Michael Adas observes : By 1937, Chettys controlled 25% of the total occupied area in lower Burma and nearly 50% of the land alienated to non-agriculturists. . . In the last years before the Japanese invasion in 1941-42 the Burma Legislative Council passed several agrarian relief measures aimed at reducing tenants rental rates and reclaiming for the small holder land that had been alienated to Chettiars and Burmese landlords. There were provisions for compensation, but these measures were cut short by the imposition of Japanese rule and the flight of the Chettiars and most of the Indian population from Burma. After independence, the lands held by Chettiars were nationalized and the debts owned them cancelled by the Burmese regime. To this date only minimal compensation has been received by Chettiars. They have been forced to write off as a loss most of their investments in Burma whose value was estimated at 760,000,000 rupees in the late 1920s. "Immigrant Asians and the Economic Impact of European Imperialism : The Role of the South Indian Chettiars in British Burma". *The Journal of Asian Studies*, Vol. 33, No. 3 (May) 1974.
44. Mookherjee, *op. cit.*, pp. 114-43.
45. As per 1937 census Indians comprised 55.49% of the total city population of Rangoon, Mookherjee, *op. cit.*, p. 137.
46. Mookherjee, *op. cit.*, p. 122.
47. Virginia Thompson and Richard Adloff, *Minority problems in South East Asia*, New York, Russell and Russell, 1970, p. 80.
48. *South East Asia*. Moscow, Progress Publishers (ed.), 1972, pp. 130-31.
49. R. Hately : "The overseas Indians in South East Asia", in Roberto Tilman ed. *Man, State and Society in contemporary South East Asia*, New York, Praeger Publishers, 1969, p. 453.
50. Mookherjee, *op. cit.*, pp. 130-31.
51. *Ibid.*, pp. 132-33.
52. Purcell, *op. cit.*, p. 78.
53. Mookherjee, *op. cit.*, p. 139.
54. Kernail Singh Sandhu, "Indian Immigration to Malaya" in K.G. Toregomming ed. *Papers on Malayan History*, Singapore, Journal of South East Asian History, 1962 pp. 40-72.
55. Mahajani, *op. cit.*, p. 95.
56. Ravinda K. Jain, *South Indians in the Plantation Frontier in Malaya*, London, Yale University Press, 1970, p. 21.

57. Mahajani, *op. cit.*, pp. 99-101.
58. *Ibid.*, pp. 103-04.
59. M.J. Colletta: Malaysia, Forgotten People : "Education, Cultural Identity and Socio-Economic mobility among South Indian plantation workers" in Judith A. Nagata ed. *Contributions to Asian Studies*, Vol. II, Lei Den, E.J. Brill, 1975.
60. Thompson and Adloff, *op. cit.*, p. 95.
61. Paul Tennant : "Pluralism in West Malaysian politics" in Judith A. Nagata ed. *op. cit.*, p. 81.
62. K.S. Sandhu, *Indians in Malaya*, London, Cambridge University Press, 1969.
63. Mahajani, *op. cit.*, pp. 101-04.
64. Jain, *op. cit.*, pp. 332-417.
65. Mahajani, *op. cit.*, p. 117.
66. Hatley, *op. cit.*, p. 453.
67. Jain, *op. cit.*, pp. 383-86.

PART IV

**MALAYSIA AND THE INTERNATIONAL
COMMUNITY**

Indo-Malaysia (Malaya) Relations

M. EZHILARASI*

"The Non-ASEAN regional powers that would likely exert their influence are Japan, China and India. As for India, the development of its Blue Water navy policy has made the Indian Navy currently the largest and most balanced fleet in the Indian Ocean. With such capabilities, India would perhaps be carried away as to flex its military muscle beyond the Indian Ocean or attempt to control the gateway of the straits of Malacca. Malaysia is quite apprehensive or nervous over these developments because of their implication on our interest."¹

This sort of apprehension expressed by Tengku Ahmad Rithaudeen bin Tengku Ismail, the Defence Minister of Malaysia in his interview to the *Journal of Asian Defence* may provoke one to think whether the relationship between India and Malaysia has yet to reach the level of intimacy and whether it implies the need to promote the ties with Malaysia as friend on equal basis as envisaged by Dr. Rajendra Prasad, one of our former presidents of India.² One can observe that the good relations that we had with Malaya/Malaysia in the past were not the result of any special efforts taken on the part of India but were the result

* Mrs. Ezhilarasi is Fellow, South and Southeast Asian Studies, Madras University, Madras.

of particular circumstances. Relations with Malaysia had always been one as 'taken for granted' till the fear of China's expansionism and of dangerous spread of communism brought a change in India's policy towards Malaysia. This article throws light on the evolution of India's relations with Malaysia.

BACKGROUND

The beginning of Indo-Malaysia relations can be traced historically back to the pre-British and pre-Islamic period. It is very interesting to note here the origin of the name 'Malaya' which has been explained in different ways even in terms of Indian origin. For instance, Shri R.K. Kanchan, in his work 'Hindu Kingdoms of Southeast Asia' attributed that with the arrival of a large number of 'Malayalam' speaking people of Kerala known as Keralaputras, the name *Sahla Mali Dvipa*—the geographical name of Malay Peninsula as noted in Puranas—changed into *Malay Dvipa*.³ This first Hindu Kingdom founded by these Keralaputras was *Melyu* which lasted till 12th century A.D. when it was destroyed by the *Kambuja* ruler. The fact that there existed so many Hindu colonies in the Malay Peninsula in the early times indicates clearly the existence of early ties between India and Malaya.⁴ Notable among such colonies are the two kingdoms as mentioned in the Chinese annals as *Lingya*—*ssieu* and *Tan*—*ma*—*ling*. They are the same *Ilangasokam* and *Tamralingam* overthrown by the maritime expedition of *Rajendra Chola* (1014–1035 A.D.) of South India against *Sumatra* empire of *Sri Vijaya*. Even before this expedition took place, as inferred from the inscription recorded in Sanskrit but in Tamil script found in Malay Peninsula, the *Pallava* King *Nandivarman* made conquest in Malay Peninsula in 9th century A.D. and the *Chola* Emperor *Raja Raja Chola* made naval attack on the part of *Kadarama* (*Malaya*) in the territory of *Shailendra* Kings of *Suvarna Dvipa* (*Sumatra* presently) and defeated the *Shailendra* King *Vijayottunga Varma* in 1068 A.D. However, he restored the Kingdom to the king and no attempt was made on the part of Indian states to claim or exercise any sort of political control over these colonies nor they seemed to send any tributes to these Indian states. The contacts between Malaya and India were maintained along different channels. Not only South India but also other parts of India like *Bengal* (under the *Balas*) Indian shore of *Mannar* seemed to maintain contacts with Malaya.

All these contacts seemed to be only economic or cultural. The activities of the Indian and Indianised counsellors of those who governed

these Hindu colonies/kingdoms were mainly cultural. Driving away the Kiratas or Cannibals to the hills, the Hindu migrants put an end to 'cannibalism'. They also modified the original religion of the people of Malaya by introducing the invocation of Hindu Duties. Credit goes to these Hindus for the transformation of nomadic Malaya society into a settled agricultural society. Cotton was introduced and weaving was also taught to Malays by Hindus. The counting of numbers was also introduced by them. The use of gold and tin mines hitherto unknown to Malays was introduced by Hindus who also taught the art of making ornaments. Even the law of Manu was introduced to the Malays. The port rules at Kedah were till as late as 1650, the same as those of Emperor Chandra Gupta Maurya as laid down in Kautilya's *Arthasastra*. Richard Winstedt aptly remarked :

It was India which so influenced the spiritual as well as the material life of Malays that till 19th century A.D. they owed nearly every thing to her, alphabet, religion, a political system, law, astrology, medical science, literature, sculpture in stone, metal work and weaving of silk and cotton.⁵

In the later period, even the Islamic religion seems to have been imported from Sumatra principally by people from Gujarat and Gulf of Cambay to Malacca, the powerful nucleus of Islamic expansion. Thus connection between India and Malaya in the early period seem to be only economical and cultural and these friendly and fruitful ties underwent a fundamental change only with the appearance of Europeans on the scene.

In the Era of European Domination

With the advent of western colonialism in India, great change took place in the nature and scope of its relations with the Malay peninsula. India was used as the base from which most of European powers extended their power and domination over the Southeast Asia itself. The Portugueses, the pioneers in this field captured Goa in 1510. An year later, Portuguese, by a naval expedition brought Malacca under their sway. Then came the British who after consolidating their position and power in India in the eighteenth century and nineteenth century A.D., brought the Straits Settlements of Singapore, Penang and Malacca under their control. An important consequence of the colonial development was the large scale migration of Indians to Malaya besides Burma. The British pursued their imperialist policies in Asia on the strength of the

Indian army which was maintained out of India's money. India was even used as the recruiting ground and base of military operations to suppress the nationalist movements not only in Malaya but also in the whole of Asia. As most of the Asian countries were under the domination of western powers and were the comrades in bondage, the spark of nationalism lit in one colony spread like wild fire to the other colonies also. No wonder, India, the base of British Empire in the east, with its national movement under the dynamic leadership of M.K. Gandhi and Jawaharlal Nehru was a great source of inspiration to the leaders of Malaya.

To quote Gandhi's words:

India was the key to the exploitation of Asiatic and other non-European races on earth. She is held under bondage, not merely for the sake of her own exploitation but that of her neighbour near and distant.⁷

Hence the freedom of India was considered as a prelude to elimination of the common enemy—Western imperialism. India gave a clarion call for the collaboration and solidarity among the national movements of all the Asian countries. The visit of Malaya in 1937 by Jawaharlal went a long way in bringing together the people of India and Malaya in the common struggle against western imperialism.

During the Second World War, Malaya like other Southeast Asian countries became the theatre of imperialists struggle. Conditions in Malaya worsened so much that large number of Indians returned to India. On their way back to India, they experienced so many hardships that only a scanty number of the deported people reached India. Those who remained in British Malaya experienced considerable privation. Thousands of Indian workers were conscripted as labourers to complete the Burma-Siam Death Railway. Vast majority of them perished in the process. The demand made by Nehru that the Governments of Burma and Siam should pay the compensation to members of bereaved families was a great consolation to the ailing hearts of the Indians. In order to comfort those Indians who stayed in British Malaya during war and also to assure them of national sympathy and support in their hours of grief, Nehru visited Malaya in March 1964 and gave a psychological relief to Indian stranders there.⁸

During the last phase of its struggle for independence, India evinced keen interest in world affairs in general and in the affairs of Asia in

particular. It desired to see not only the independence of India but also that of Burma, Malaya and rest of Asia.

On May 4, 1945 at San Francisco, Mrs. Vijayalakshmi Pandit submitted a memorandum to the delegates of International conference of the Institution of Pacific Relations calling for an immediate declaration of freedom for all the colonies from the alien domination. She declared:

I speak in particular for Burma, Malaya, Indochina and Dutch East Indies, all bound to my own country by the closest ties of historical and cultural kinship and which cherish aspirations to national freedom like our own. Liberation from Japan should mean for them, liberation from all alien imperialism so far as this conference is concerned.⁹

She categorically warned that there would be no real peace in this earth so long as the enslaved nations of Asia were denied justice. The same opinion was held in view by Nehru.

To the dismay of the nationalists, the British not only regained their control over the Malay peninsula by sending more British and Indian troops but also reasserted their control by establishing a British military administration to govern the country till it was replaced by a civilian government. However India never lagged behind in expressing her solidarity with Asian nations. Even the pre-occupation with the task of attaining freedom did not prevent her from doing so as she realised the happening on these lands would affect the destiny of her own.

In the post world war period, Malaya was facing the armed struggle for power embarked upon by the Malay communist party. Taking into consideration the peculiar demographic situation in Malaya, Jawaharlal Nehru proposed progressive introduction of self-government.¹⁰ He noted that :

The problem in Malaya is not an easy one. It is difficult because in Malaya the people of Malays are in a minority.

He even suggested that economic measures could remove the basic causes of discontent and their progress towards self-rule against the communist-led revolt in Malaya. His tardiness in pronouncing on the issue of independence to Malaya was due to the realisation of the inevitable need for stability and security in the area.¹¹

However India vehemently resented the attempt to maintain, the political and economic subjection of Malaya and other countries and resented the use of Indian troops for the continuation of the imperialist control over Malaya.

Development Since India's Independence

About the future course of Independent India's policy towards other countries, in September 1945 itself the Congress made it clear when it announced:

A free nation India will inevitably seek the close and friendly association with her neighbour countries and would especially seek to develop common policies for defence, trade and economic and cultural development with China, Burma, Malaya, Indonesia and Ceylon as well as the countries of Middle East.¹²

As Malaya had not yet attained the independence from the British, relations between India and Malaya were not the same one as that existed between her and Burma or between her or Indonesia. Pandit Nehru, the architect of our foreign policy gave more importance to larger global issues which would befit a country of India's size, experience and influence. Because of the Kashmir issue, much emphasis was made on strengthening the ties with Muslim countries of West Asia although Southeast Asian countries like Malaya looked toward India with great admiration as one with vast experience over world issues. Efforts were made by the leaders of both countries to promote mutual understanding and co-operation through frequent visits. Nehru visited Malaya in June 1957, his visit helped him to understand the nature of communist threat to Malaya. He declared:

Terrorism in Malaya was excessively harmful and it could not be tolerated. . . it will only degrade humanity.¹³

In Malaya as a result of misinterpretation about the Kashmir issue, there was a bad impression about India with regard to Kashmir problem. The visit of India by Dato Onn bin Jaffar in April 1962, his talks with the Chief Minister of Kashmir during visit and on the spot study of the situation in Kashmir, did much to clear up Malayan misconception and brought Malay and India closer. India by the end of that year awakened to the crucial importance of Southeast Asia with the Chinese attack in

late 1962. Hitherto, India's interest in Malaya was mainly related to the protection and promotion of the interests of Malay Indians numbering about 748,829 in 1947 the single largest group of overseas Indians. India now came out with her criticisms over the communist violence in Malaya.

When Malaya got independence in 1957 India enthusiastically welcomed it. India was represented in the independence day celebration in Kuala Lumpur by S.K. Patil, the then Minister for Irrigation and Power. In the Parliament, Nehru welcomed the independence of Malaya. He said:

We welcome it for a variety of reasons. We welcome it because it is one more step slowly and laboriously taken in freeing Asians from foreign control. We welcome it because Malaya is a country which has thousand of associations with India.¹⁴

When Malaya became the member of the United Nations (U.N.) Krishna Menon, the Indian representative welcomed it as a happy augury for the General Assembly. India was always against the formation of any military bloc or alliance. As a deviation from her policy, she did not oppose the conclusion of Defence Treaty between Malaya and British. She even went to the extent of justifying the mutual Defence Treaty. To quote Nehru's words:

There was a clear distinction between a purely defensive agreement of this kind and the regional pact which India disliked it because it had the appearance of being directed at others.¹⁵

Following the footsteps of India, Malaya however did not join SEATO or any other bloc. The identical approach of the two nations can be well understood by the declaration of faith in the Panch Sila principles and non-alignment policy by their leaders Nehru and Tunku.

We did not want to align with any bloc or any group. Our pact with Britain was solely from internal security and defence point of view as Malaya had not yet developed her national army and was not in a position to incur the expenditure. We are a free nation and abrogated the pact when and if we want.¹⁶

These words uttered by Tunku exhibits his country's stand similar to one framed by Nehru to deal with the power politics.¹⁷ This identical

approach helped both India and Malaya to work together towards their future as friends and equals. The apprehension of communism and China's expansionism by both countries further brought them together very closely. When China started 'unprovoked' armed aggression on India, Tunku, the Prime Minister of Malaya was the first head to declare that the whole democratic concept had been put in jeopardy in India by Chinese aggression and offered India all the support.¹⁸

Malaya without resorting merely to diplomatic lip service, did not hesitate to come to the help of its friendly country, India in spite of the fact that there is a large Chinese population in Malaya. Tunku launched the 'Save Democracy' operation and sent the fund for the relief of Indians who were the victims of aggression and who were made homeless by the invading China. On September 20, 1965 he warned the Malaya would regard as 'aggression' any intrusion into India's territory by China.¹⁹ The Malaya Government viewed with great concern the ultimatum by China to India to dismantle military installation along the Sikkim border and expected all peace loving countries to refrain from taking sides.

Malaya's timely support was reciprocated by India to Malaya when the formation of Malaysia was confronted by Indonesia.

The Formation of Malaysia

It was in the year 1961 (27 March), Tunku announced in his speech to foreign correspondents' Association at Singapore that:

Sooner or later Malaya which can not stand alone and in isolation should have an understanding with Britain and the people of the territories of Singapore, North Borneo, Brunei and Sarawak and can be brought together in the political and economic co-operation.²⁰

India welcomed this proposal as this would not only free the remnants of British colonies from the clutches of colonialism but also help to make Malaya a bulwark against communism and Chinese expansionism in region. Indonesia opposes this proposal as one of neo-colonialism and confronted the formation. India came to the help of Malaya but only diplomatically. India although considered 'the disturbance of sovereignty of Malaysia by using force as an unfortunate one'²¹ did not come out boldly with an overt support to Malaysia. She gave diplomatic support to Malaysia in international bodies on various occasions. At the

preliminary meeting of the Asian and African Conference held in Djakarta in April 1964, India manifested her moral and political support to Malaysia's representation to the main conference. Although India did not succeed in securing the invitation for the Government to unitary state of North Kalimantan even as an observer:

India's help and support too was a great moral booster for us when anti-Malaysia forces went all out to block us from the Algiers conference and nearly succeeded in do so.²²

Recalled by the Prime Minister of Malaysia in October 1966 on the occasion of the visit of Malaysia by Zakir Hussein, the then Vice-President of India.

For one of the non-permanent seats in the United Nations Security Council, New Delhi successfully supported the Malaysian candidature. When Malaysia was elected to the Security Council Indonesia withdrew from the U.N. as the neo-colonialist Malaysia was being seated. Indonesia's withdrawal of membership was noted with regret by India. Further, India's favourable stand with regard to Malaysia led to the deterioration in the Indo-Indonesian relationship. On the other hand, there was a parallel improvement in the relations between India and Malaysia. India wanted a favourable peaceful settlement of the disputes between Malaysia and Indonesia through negotiations or any other peaceful means.

- KASHMIR ISSUE

Another issue which exposed the existence of mutual and friendly ties between India and Malaysia was the Kashmir issue. In 1965, when hostilities broke out between India and Pakistan over certain territories of Kashmir, Malaysia adopted a favourable attitude towards India although it followed a policy of conciliation and called both parties to settle the conflict peacefully. Tunku even declared his intension to help the matter settled with the co-operation of both countries under the auspices of the UN. In the Security Council, Radhakrishna Ramani, the Malaysian representative defended the Indian's point of view over the date of attack and violation of ceasefire by Pakistan. He even went to the extent of comparing Pakistan's attack on India with Indonesia's confrontation against Malaysia. To quote him:

We in our part of the world have been facing for the last two years this kind of war, infiltration, subversion, sabotage and we can speak with some knowledge learnt in the hard school of experience.²³

He also insisted that:

any resolution by the security council should contain four essential parts. First, acknowledgement of India's ready acceptance of the Security Council's call for a ceasefire, secondly, regret that Pakistan had felt if unable to agree to an unconditional ceasefire, thirdly, deplor and repeat large scale armed infiltration to Kashmir. . . and fourthly, call on Pakistan. . . to cease hostilities.²⁴

Despite the bonds of Islam and despite Malaysian attempts to stay neutral in the dispute between India and Pakistan over Kashmir, Malaysia felt sympathy for India. When the Pakistan's note of September 23, 1965 protested against the Malaysian delegate's speech on 18 September as an extra-ordinary behaviour on the part of a Moslem country, the Malaysian Prime Minister clearly indicated on September 26 that Malaysia would regard her international ties as more important than her religious ties with other countries.²⁵

The support to India by Malaysia brought deterioration in Pakistan's relations with the latter. The new polarization of forces in Asia brought into existence the Jakarta-Peking-Pindi Axis till Malaysia's normalization of relations with Pakistan and Indonesia in the year 1966.

INDIA-MALAYSIA RELATIONS AND INDIRA GANDHI

The third phase of India's foreign policy since independence started with the term of Mrs. Indira Ghandhi. India's foreign policy under her leadership had been essentially pragmatic and non-ideological one. The main focus and thrust of her foreign policy was the strengthening of bilateral relationships with other countries especially Southeast Asian countries. Her visit to some of these countries including Malaysia in July 1968 were aimed at enhancing the bonds of friendship with them, she even expressed India's willingness to participate and support a broad regional association in Southeast Asia on the basis of equality and mutual benefit.²⁶ By the cultural agreement signed between Malaysia and New Delhi on March 30, 1978, both countries agreed to provide students from each other, facilities for admission to their educational institutions and

also agreed to take measures to promote understanding and co-operation in the fields of culture, music, literature, education and research, science and technology, mass media and sports and youth activities. Already in 1973, arrangements were made for the exchange of news and Television programmes between India and Malaysia to facilitate free flow of information without depending on discriminatory foreign news agencies.

Now India has been accommodating Malaysian students in her educational institutions and helping Malaysia in shaping her destiny as acknowledged and appreciated by Datuk Musa Hitam, Malaysian Ministry of Primary industries.²⁷

Malaysia has received technical assistance from India. Training facilities have also been provided for Malaysia military personnel in defence training institutions since 1965. Through joint-ventures and multi-lateral economic endeavours, both countries have been enjoying the benefit of economic development.

India has never regarded regionalism as in any way contradictory to nationalism or internationalism. It is in this context India welcomed the formation of ASEAN and extended its full, unreserved support to the ASEAN and regarded it as a genuine and legitimate manifestation of the common urge of neighbouring states to come closer to each other.²⁸ India supported the Malaysian idea of neutralization of Southeast Asia. Malaysia's efforts in favour of regional harmony with the normalisation of relations among the states of the region through this proposal was appreciated and welcomed by India, whose concept of a zone of peace for the area the encompassed by the Indian ocean has been equally supported by Malaysia. With the mutual acknowledgement and appraisal of proposals for regional harmony and for co-operation in their pursuit 'to lift the world out of its past turmoil and to bring about a new era that will enable to exploit the potential to achieve greater happiness and fulfilment for the people of both countries,'²⁹ new dimensions were added to this relationship, the basis of which stretches back to history.

On the controversial issue of claim over Sabah by Philippines, India endorsed Malaysia's claim by denying the claim of Philippines over Sabah territory of Malaysia.

India's position regarding Kashmir has been appreciated by Malaysia which always vocated the peaceful settlement of the problem through negotiations as per Simla Agreement. It welcomed the Simla Agreement and expressed its hopes that 'it will help to move towards eliminating

antagonism and confrontation from the Indian sub-continent. Malaysia's friendly attitude towards India over the Kashmir issue is of great significance as this will help India to influence the views of some other members of the organisation of Islamic countries who are siding the Pakistan case on right of self-determination for Kashmiris.³⁰ At the same time, it seems that Malaysia doesn't want to be drawn in the differences between these two countries as both are friendly to her and so has wished the both to settle the matter amicably.

Regional Issues

The regional issue over which there has been shades of differences between India and Malaysia is the Kampuchean problem. On Kampuchean issue, both have favoured a comprehensive political settlement with the withdrawal of foreign troops and respect for the territorial integrity and sovereignty of all the countries concerned. But the differences lie only in the way to bring into effect this settlement. India recognised Heng Samrin regime on 7 July, 1980. Explaining the Government's decision, the External Affairs Ministry spokesman said that its decision now influenced by two factors—the support from the masses for and the effective control of territory by the Heng Samrin regime. India also justified its stand by explaining that the motivation behind such decision was to promote peace and stability. Hence it hoped that the recognition of Heng Samrin regime did not in any way affect its relations with ASEAN countries which have their own views of apprehensions over the Vietnam backed Heng Samrin regime.

The timing of the announcement of such decision by India to the dismay of Malaysia sowed the seeds of mild irritants in Malaysia's friendship with India. Early in June 1980, Malaysia invited the Indian External Affairs Minister Shri Natwar Singh to participate in a dialogue with ASEAN members in Kuala Lumpur. This invitation on the part of Malaysia was due to her realisation of the need and value of India's help in solving the Kampuchea problem. Anticipating the announcement of India's decision to recognise Heng Samrin regime in July, the External Affairs Minister avoided attending the meeting on some flimsy excuses. Malaysia felt greatly disappointed and uneasiness over the mishandling of such an important affair by India. This uneasy relationship was however temporary as there has been an Indo-Malaysian convergence of interests over the apprehension of China and Communism. In the second regional meeting of Commonwealth heads of Governments held in New

Delhi on September of the same year, both countries expressed their desire for a comprehensive political solution of Indo-China with the withdrawal of all foreign forces.

International Issues

On international issues, India and Malaysia have close identity of views. They worked/have been working hand in hand as members of Commonwealth or of Colombo plan or the non-aligned movement or as partners in Group 77 or in South and South co-operation programmes. Both have adhered to the principles of respect for sovereignty and territorial integrity of states, renunciation of the threat, of use of force in settling disputes, non-interference in the internal affairs of other countries, equality and mutual respect in the conduct of their foreign relations. On the nuclear non-proliferation treaty, both have expressed the identical view that such a treaty should be in accordance with the principle embodied in the U.N. General Assembly resolution and that it should be comprehensive and non-discriminatory and that it should not inhibit the development of nuclear technology for peaceful purposes.

Malaysia and India share similar hopes and aspirations for a free, peaceful and progressive world society that it is not aligid to any power bloc. Both are committed to the upholding of world peace, justice and co-operation and the elimination of apartheid. No doubt, the bonds of friendship between them have been accelerated by such identical stands on international issues.

The Malaysian Indians

The Malaysian Indians, the third major component of multi-racial society of Malaysia, have always formed part of our foreign policy towards Malaysia. The Malaysian Indians came to Malaysia in great number during the later half of the 19th century under many different arrangements. While many of the Indians came under a *Kangani* pattern of recruitment, most of them came under the type of 'indenture contract'. The influx of Indians after 1830 was intensified by the British colonial penetration into the peninsula of Malaya. The labour shortage faced by the British in their rubber plantations stimulated the British to turn to the Indians as Chinese were already under recruitment for tin-mining labourship. As India was under the administration of British monarch, the recruitment of labour was relatively easy. The following table shows the gradual increase of the Indian population in Malaya.³¹

<i>Year</i>	<i>Indian Population</i>	<i>Percentage of the Total Population</i>
1871	33,390	11.0
1911	267,140	10.1
1921	471,514	14.2
1931	621,847	14.3
1947	599,617	10.25
1957	735,038	10.0

At present, the population of Malaysian Indians amounts to 1.4 million that is 8 per cent of country's 17 million total population. The Indian migrants to Malaya are overwhelmingly South Indian Tamils. In the year 1957, of the total Malaysian Indian population 6,35,000 were South Indians and 61,400 were Sikhs, Punjabis, etc.

During the Second World War, the prolonged isolation from India, the disruption of the plantations and the increased politicization of Indian communities under the activities of Indian Independence League (IIL) brought tremendous effects on the Malaysian Indians. With the coming into contact with the other communities in Malaya, the Indians started to identify themselves closely with their adopted country. However, the degree of assimilation and integration with other communities was comparatively less as they wanted to preserve their cultural heritage and live accordingly.

When India got independence in 1947, its interest was mainly related to the protection and promotion of the interests of Malayan Indians. At the same time, Indian government under Nehru took measures to encourage Indian immigrants to accept Malaya as their permanent home. To quote Nehru :

We are obviously intent on protecting the interests of Indians abroad. Nevertheless we shall undoubtedly try to do our best to protect all legitimate interests.³²

India took all steps to safeguard the interest of Indian community when Malaya was experiencing communist violences following the declaration of the Emergency in June 1948 to 31 January 1953. About 1590 Indian labourers were arrested in Federation of Malaya. Indian representative of Government of India intervened in the matter to see the release of Indian detainees. The Indians who were awarded capital punishment were given legal assistance to file appeals and mercy petitions. The Indian representative also successfully convinced the

Malayan Government to spend Malaya's share of Indian immigration fund for land settling of Indian labourers in the peninsula. The settlers who were allotted land under the two pilot schemes were entitled to enjoy full right over the land except the right to sell. India also took steps for promoting the educational standards of Indian population of Malaya as it remained poor. When India was approached by the Malaya Government for recruitment of Indian teachers to work in Indian schools in Malaya, it was readily provided all sorts of help. The Government of India also instituted a scholarship fund in Malaya to enable the students of Indian origin to receive university education.

The liberal approach by Malaya/Malaysia Government towards the minorities has also promoted the national identification among them. The Federation Citizenship Act of 15 September, 1952, through its liberal provision enabled large number of Indians to acquire citizenship in Malaya.³³

There has been mutual appreciation of the policy on the question of citizenship by the governments of India and Malaysia. Both countries recognised and appreciated the contributions of the Malaysian Indians to Malaysia as loyal citizens of the country. At a reception held on 7 December 1959 in honour of the former President of India, Dr. Rajendra Prasad, Tunku admired openly that Indians who formed the third major race in Malaya were playing their active part in the moulding up of the Malay nation and a majority had settled in the Malay way of life.

Ironically the majority of the Malaysian Indians whose muscles built the country's roads and railways and enable the world's largest export of natural rubber, still remain poor. The income disparity is greater among the Indians than either the Chinese or Malays between whom the Malaysian Indian population remains the most important balancing factor in the peninsula race-relations.

When Malaysia was facing racial violences in the year 1969, India expressed its sympathy for Malaysian government and people and wished Malaysia to solve this problem without any help from outside.³⁴ India took efforts to provide protection and aid only to people of Indian origin in Malaya and left the protection of Malaysians of Indian origin under the responsibility of Malaysia as its internal affair.

Under the new economic policy (*Bhumiputra* policy) the Malaysian Indians as *non-bhumiputras* are deprived of the economic privileges enjoyed by economically backward Malays and other indigenous peoples. Apart from the straight power politics, ethnicity also plays an

important part in obstructing their way to progress as a whole. Although most of them have settled permanently in Malaysia and began to think in terms of Malaysian identity as opposed to an Indian identity, they are looked down by the other races in Malaysia at the bottom of social heap.

Politically the Malaysian Indians have been able to play a role in Malaysian politics through the Malaysian Indians Congress (MIC) but only insignificant being a silent and yesman component of National Front Government without trying to promote the Indian interests.

Poverty, the language difference and the subsequent difficulty in catching up with the mainstream secondary schools which conduct classes in Bahasa Malaya, etc. are some of the impediments to the progress of these Indians. However, the government of Malaysia in all its planning and implementation has made imperative that it is taking into account the interests of all its people whatever their ethnicity may be.³⁵

ECONOMIC RELATIONS WITH MALAYSIA

The beginning of Indo-Malaysian economic relations can be traced historically back to the pre-British and pre-Islamic period. In the post-independence period, India evolved a constructive and mutually beneficial economic policy in her relations with Malaysia through trade and the share of her intermediate technology via joint ventures. The main core of Indian Government's policy with regard to setting up of joint ventures has been that Indian entrepreneurs should be partners in the development not as exploiters of the countries in which they set up joint ventures. This has been made implicit when it declared:

Assistance from one country to another has a significance no less for the economic progress of the less developed countries than for the building up of a world community in which each country contributes to the development of others according to its capacity. This is an obligation which India fully accepted.³⁶

Joint Ventures

As per information, Indian joint ventures numbering about 39 had been set up out of which 28 were already in operation. Malaysia seems to be the largest recipient of Indian investments overseas and there is a great scope for further Indian participation in engineering industries.³⁷ Some of the items which Indian joint ventures are producing in Malaysia are

textile, engineering, steel fits, spinning plant, iron pipes, glass bottles, steel furniture, electric motors, pumps, diesel engines, time chains, automobile chains, palm oil fractionating plant and hydrogeneration of palm oil.

In order to promote the establishment of joint ventures abroad, the Government of India provides tax incentives for setting up of joint ventures abroad. The Government of India also signed a double tax agreement with Malaysia to avoid the same income being taxed by both the home country and the host country. The tax incentives are provided on profits, dividends, interest, royalties and so forth also. In spite of all these measures taken by both Governments, an inordinate number of Indo-Malaysia joint ventures appear to flounder due to various factors like financial constraints, wrong choice of joint ventures' partners, lack of emphasis on marketing strategy, low quality of products, etc. As the concept of joint ventures is not merely putting the capital in but a matter of improving economic co-operation among developing countries, efforts need to be taken to prevent the collapse of joint ventures.

Indo-Malaysia Trade Relations

Among the South Asian countries, India has almost always been the single most trading partner of Malaysia. The primary and traditional items of India's export to Malaysia have been cotton textiles, sugar and jute. In 1968-69, there was a great decline in the export of these items and India faced a considerable loss of export revenue. The decline was due to the intensive import substitution efforts in Malaysia as well as the successful price competition by Mainland China, Taiwan and Japan. The reduction in the export earnings on traditional items was however made up partly by a rise in the export of non-traditional items like medicinal pharmaceutical products, paper manufactures, rubber manufactures, metal manufactures, electric and non-electric machinery, transport equipment, iron and steel and cinematographic films.

As regards imports from Malaysia, tin, non-essential vegetable oils, copra, rubber and betelnuts are the principal items. India has been the largest importer of Malaysia crude oil and refined palm oil.³⁸ Indo-Malaysia trade frequently has been registering deficit only. Because of restricted imports in the fifties, there was no such deficit experience for India in her trade with Malaysia. The sixties experienced an equilibrium position whereas in the seventies India witnessed an increase in the two way trade flows between Malaysia and India. A look

at the following table indicates the balance of trade between India and Malaysia.

India's Trade with Malaysia³⁹

(Values in million rupees)

Years	Imports	Exports		Balance
1961-62	129.2	67.8	—	61.4
1969-70	52.5	52.4	—	.1
1970-71	36.6	74.5	+	37.9
1971-72	24.4	74.5	+	50.1
1972-73	49.6	59.3	+	11.7

(Source : DGCI & S, Calcutta)

It is quite clear as indicated in the above table that upto 1973 trade was in favour of India and only after 1973, there was a drop in the exports to Malaysia and imports outweighed the exports. Since 1977, the balance of trade was in favour of Malaysia as indicated in the below given table.

Malaysia's Trade with India⁴⁰

(in thousands of Malaysian Dollars)

Year	Exports	Imports	Balance
1973	74,600	89,200	— 14,600
1974	62,100	133,400	— 71,300
1975	64,900	112,200	— 47,300
1976	75,300	148,800	+ 73,500
1977	391,000	140,900	+ 250,100
1978	565,500	171,000	+ 394,500
1979	509,600	190,400	+ 319,200
1980	620,000	222,200	+ 400,800

Source: Annual trade statistics of Malaysia, Various years.

In view of this trade imbalance, there has been frequent discussions, consultations and considerations at higher levels to correct this. India even persuaded Malaysia to buy more Indian export items. Malaysia also agreed in principle to import more from India in order to rationalise the balance of trade. Dr. Mahathir when he visited India in January 1980 welcomed this idea but he emphasised that the Indian entrepreneurs should promote their goods.⁴¹ Even in the late eighties there was no change in this trend Malaysia enjoys extremely favourable balance of trade with India as shown by the substantial surpluses in the following table.

India's Trade with Malaysia

(Value in Rs. 000)

Year	Imports	Exports and re-exports	Balance of Trade
Apr 84 to Mar 85	5396633	765786	-4630847
Apr 85 to Mar 86	4076509	709650	-3366859
Apr 86 to Mar 87	5536323	847483	-4688840
Apr 87 to Mar 88	8405524	902208	-7503316
Apr 88 to Mar 88	7957855	1316223	-6641632
Apr 89 to Mar 90 (Provisional)	6501563	1756400	-4745163

(Statistics received by the author of this article with thanks from DGCI and S. Calcutta).

The adverse balance which India has been suffering is due to the failure on the part of our exporters to maintain proper contacts with the importers (especially Chinese) in Malaysia, the defective packing, delivery delays, substandard quality of goods, lack of adequate aftersales services, the withdrawal of the preferential rates for specified products by the Government of Malaysia in August 1966 purely on revenue grounds.⁴² The Government of India also has to take some organised efforts to foster a complementary nature of economic relationship with Malaysia instead of competitive one. To correct the unhealthy imbalance in the trading relations the co-operation from Malaysia side is also indispensable. Between the expression of the need and initial moves already taken towards this goal and its final realisation lies a chasm yet to be bridged. The final response to this challenge of imbalance has to take a tangible shape.

Related Issue

Indo-Malaysian economic relationships are also extended to other fields like banking and insurance, tourism, air services, etc. The number of Malaysian tourists visiting India has been rising stably. India seems to emerge as the largest South Asian recipient of unilateral transfer of payments from Malaysia. The deputation of our experts to Malaysia in different fields assists Malaysia in her economic development.

During the visit of Malaysia by former Indian Prime Minister V.P. Singh in 1990, a new impetus to trade and economic exchanges was attempted. He proposed for an expansion of trade to achieve balancing at higher levels. He ruled out the possibility of ending India's trade with Malaysia just because of deficit experience. The upgrading up of the

level of Indo-Malaysia Joint Committee to the level of Joint Commission headed at the ministry level was also recommended. India which has achieved a great stride in the sphere of technology will utilise the wide possibilities for technical transformation to Malaysia and will further improve her economic relationship with Malaysia. In order to make the economic relationship mutually beneficial the Government of Malaysia also must come forward sincerely to extend co-operation in this regard.

CONCLUSION

The geographical proximity, historical, and cultural ties and interdependence among the nations made India and Malaysia of paramount importance to each other. India shares maritime border with Malaysia besides Burma, Indonesia and Thailand. The security and strategic interests and policies, the developments taking place in each other's sphere seem to have influenced the Indo-Malaysian relationships considerably, over the threats emanating from the policies and activities of the Peoples' Republic of China, the great power rivalry in Indian Ocean, the communist insurgencies, both are having a convergence of security interests. However, India can not foster her relationship with Malaysia just emphasising on these common of security and stability threats.

Malaysia, owing to her peculiar demographic condition, has her own limitations in pursuing any policy towards China. In general, she tries to keep up better relations with China to avoid any threat from China. In view of the emerging regional powers to fill up the vacuum created by the reduction of military presence in the Southeast Asian region. Malaysia is somewhat uneasy about the re-emerging militarization of Japan and the growing projection of Indian naval power. To prevent this uneasiness of Malaysia, India must take it into confidence by improving this bilateral relations on mutually beneficial and equitable basis and showing great concern for the integrated regional development as a whole. The last but not the least important thing which India has to do is, to elevate the image of India in the eyes of the other countries, as one with political stability and prosperous economy at home. Such image and congenial atmosphere is a pre-requisite to concentrate and to attain co-operation towards improving the harmonious relations with other countries.

NOTES AND REFERENCES

1. An exclusive interview with Tengku Ahmed published in the *Journal of Asian Defence*, November 1990, p. 20.
2. This was expressed by Dr. Rajendra Prasad when he visited Malaya between 5-7 December, 1958. V.K. Arora and A. Appadorai, *India in World Affairs 1957-58* (New Delhi, 1975), p. 102.
3. R.K. Kanchan, *Hindu Kingdoms of Southeast Asia* (New Delhi, 1990), p. 137.
4. Ancient Kedah, the 'Kadarm' of Tamil classics was an important Hindu settlement which rose to the position of second capital of Sri Vijaya Empire. It suffered along with Sri Vijaya during the Chola attack in eleventh century A.D. Takuapa, a little north to Kedah is obviously the Takkola of Ptolemy which was an important port in the early times.
5. R.K. Kanchan, *op. cit.*, p. 281.
6. Hindus of Gujarat who were compelled by Hindus and Jains to embrace Islam unwillingly as they were refused readmission into Hindu fold after their release from the camps of Sultan Mohamad Ghazhani without converting them to Islam in exchange of scores of cart loads of gold took their full revenge after 600 years by subsidising the Mullas to propagate Islam in Malaya and Indonesia.
7. Dr. V. Suryanarayan, "Attitudes of Malaysia and Indonesia towards Indo-Pakistan conflict 1965: National interest or Islamic solidarity?" in Surendra Chopra, (ed.) *Perspectives on Pakistan's Foreign Policy* (Amritsar, 1983), p. 362.
8. Material support was also given to the ailing Indians in Malaya by dispatching money and clothes to them under relief operation the Indian Relief Committee, formed under the chairmanship of Nehru that gained momentum when the interim government in power sent additional ships to bring Malay Indians to India and when it granted additional aid to redress the economic grievances of Malay Indian.
9. Birendra Prasad, *Indian Nationalism and Asia, 1900-1947* (Delhi, 1979), p. 133.
10. It should be noted here that Nehru even stipulated that such countries which were declared under-developed politically, should not be entitled to right for self rule immediately without an impartial enquiry and that they should be placed under the protection of the Trusteeship Council who shall educate them so as to make them fit for exercising this right.
11. India, *Parliamentary Debates*, Part 2, Vol. 3, No. 3, 17 March, 1950, Col. 1899.
12. A.G. Noorani, *Aspects of India's Foreign Policy* (Bombay, 1970), p. 177.
13. *The Hindu*, 20 June, 1950.
14. Jawaharlal Nehru, *India's Foreign Policy: Selected Speeches, September 1958—April 1961* (New Delhi, 1983), p. 433.
15. Ton That Thien, *India and Southeast Asia, 1947-60*, (Geneva, 1963), p. 245. One can observe that India pursued a restrained policy on the British colonial policies than of any other imperialists as a result of her association with Commonwealth and as a member of Commonwealth. No wonder, India took a passive attitude towards Malaya, which was also a Commonwealth member, in this regard.
16. *The Hindu*, 9 December, 1958.
17. "We have proclaimed during the past years that we will not attach ourselves to any particular group. That has nothing to do with neutrality or any thing else for

- passivity". This was the principle followed by Nehru, on the world power politics. *Selected Works of Jawaharlal Nehru*, Second series, Vol. IV (New Delhi, 1986), p. 596. Tunku had more admiration for Nehru even though he did not appreciate Nehru's attitude towards Masco.
18. R.K. Jain, Ed., *China and Malaysia, 1949-83 (Documents)* (New Delhi, 1987), p. 70.
 19. *Asian Recorder*, 1965, Vol. XI, No. 7, p. 6716.
 20. Peter Boyce, *Malaysia and Singapore in International Diplomacy—Documents* (Sydney, 1968), p. 8.
 21. B.D. Arora, *India-Indonesia Relations, 1961-80* (New Delhi), p. 131.
 22. G.P. Bhattacharjee, *Southeast Asian Politics: Malaysia and Singapore* (Calcutta, 1976), pp. 192-93.
 23. *U.N. Security Council Official Record*, 1241 mtg. Vol. 27, 1965, pp. 8-9.
 24. *Keesing's Contemporary Archives Reports*, 1965 (Bristol, 1966), Vol. XV, p. 21109.
 25. The attitude of Malaysia towards India-Pakistan conflict was determined more by principles of national interest than Islamic solidarity. Even in the pursuit of national interest, the top most priority was given to the preservation of world peace as pointed out by the Government of Malaysia. For a detailed account on this point, please refer the article "Attitudes of Malaysia and Indonesia towards Indo-Pakistan conflict, 1965, National Interest or Islamic solidarity" by Dr. V. Suryanarayan.
 26. Except Singapore no other members of ASEAN showed interest to India's indication of membership in ASEAN group as India is recognised as a South Asian country.
 27. *Foreign Affairs Malaysia*, 1975, Vol. 8, No. 4, Oct. 27, 1975, p. 30.
 28. *India in Asia and Africa: Documents—1976—1978*, J.A. Naik Ed. by (New Delhi, 1981), p. 223-24.
 29. *Foreign Affairs Malaysia*, 1975, Vol. 8, No. 4, p. 32.
 30. *Hindustan Times*, 5 June 1990. It can be recalled here that Malaysia even supported India as one of the members of the preparatory committee for the Muslim summit meeting held in Rabat, Morocco in September 1969 on the grounds that India is also a Muslim country to be included in the summit. However, this was resisted by Pakistan. Refer John. W. Henderson, *Area Handbook for Malaysia* (Washington, 1970), p. 350.
 31. Paul D. Wiebe and S. Mariappan, *Indian Malaysians* (New Delhi, 1978), p. 6.
 32. *Debate paper on foreign policy in the Constitutional Assembly on December 1947*, Vol. II, New Delhi, Col. 1259-65.
 33. The Citizenship Act provides that all persons born in Malaya after the independence automatically will become citizens of Malaya. Those who were residents in Malaya for eight years preceding independence are also eligible for citizenship.
 34. *Debates*, Rajya Sabha, Vol. LXVIII, no. 16, 17 May 1969, Cols. 3525-30.
 35. For a detailed account on the condition of Malaysian Indians, refer Suhani Aznam, "Ethnic Indians fall behind even as nation prospers", *The Far Eastern Economic Review*, June 1990.
 36. Usha Dar and Pratap K. Dar, *Investment Opportunities in ASEAN Countries* (New Delhi, 1979), p. 275.
 37. A striking feature of the Indo-Malaysian joint ventures is the extent of Bhumiputra part in the ownership. On the average, the Bhumiputras account for 14.6 per cent total paid up capital while the corresponding share of Malaysian is only 4.4. per cent.

38. It is worth to remember here that Malaysia responded favourably to India's request for extra supplies of crude oil at the time of oil crisis recently.
39. K. Romani Kumar Singh, *India's trade with Southeast Asia* (Allahabad, 1976).
40. Mohamed Ariff, *Malaysia-South Economic Relations*, pp. 67-68.
41. *Patriot*, 24 January 1980.
42. Under the U.K.—India trade agreement of 1939, specified products from the Union of Malaya were given some concessions in the customs duty at the time of entry and this was reciprocated by Malaya.

Malaya/Indonesia Relations*

31ST AUGUST, 1957 TO 15TH SEPTEMBER, 1963

OFFICIAL REPORT

There has always been a strong desire on the part of the Malayan people for very close and friendly relations with the people of Indonesia not only because of the sentimental and blood ties which bind a major part of the population of the Federation of Malaya with that of Indonesia but also because, apart from Thailand, Indonesia is the nearest neighbour of the Federation with which close cultural and economic relations existed. Even before the outbreak of the Second World War (despite being separated by different colonial masters) close ties were maintained and there was a free flow of visitors between the Malayan mainland and the Netherlands East Indies. When the Indonesian people fought for their independence from the Netherlands soon after the end of the Second World War the people of Malaya gave not only moral and material support but hundreds of Malaysians went over to Indonesia to join the Indonesians, fighting side by side with them, and many sacrificed their lives for the sake of the independence of the people for whom they had the closest regard and affection. After the attainment of Indonesian

* Di-chetak Di-jabatan Chetak Kerajaan Oleh Thor Beng Chong, A.m.n., Fencetak Kerajaan, Kuala Lumpur, 1963.

independence many of these volunteers settled down in Indonesia becoming Indonesian citizens.

The regard and esteem for Indonesian national leaders became a source of guidance and inspiration to Malayan people in their struggle for independence.

The strong moral support and backing which the Indonesian leaders gave to the independence movement in the Federation was highly appreciated by Federation leaders and it became a basic principle in the Federation's foreign policy after independence to forge the closest links with Indonesia. Even before Merdeka, the Prime Minister, Tunku Abdul Rahman, in 1955 in his capacity as Chief Minister, paid an official visit to Indonesia to foster further goodwill and friendly ties with Indonesia.

Early in 1957 it was decided to open a Federation Mission in Djakarta and an officer of the newly formed External Affairs Service of the Federation Government was sent to establish a Mission, thus creating history by forming the first Mission overseas in a country other than a member of the Commonwealth. On 31st August, 1957 on the attainment of independence this Mission was converted into a full Embassy, one of the first to be established after Merdeka. Enche' Senu bin Abdul Rahman was sent as the Federation's first Ambassador in Djakarta while Dr. Mohamad Razif became Indonesia's first Ambassador in Kuala Lumpur. In September, 1962, Enche's Senu was succeeded by Dato' Kamaruddin bin Haji Idris while Dr. Mohamad Razif was succeeded by Lt.-General G.P.S. Djatikusumo in April, 1963. In November, 1958, a Consulate was also established in Medan to meet the growing need of trade and cultural relations.

In November, 1958, Tun Abdul Razak, the Deputy Prime Minister, then in his capacity as Deputy Prime Minister and Minister of Education, led a goodwill mission to Indonesia, and in a major speech after his arrival affirmed our faith in the ability of the Indonesian nation to give inspiration to the Federation people and strongly urged the strengthening of relations between the two countries. This sentiment was reciprocated by Mr. Ruslan Abdul Gani, a Minister in the Indonesian Government who declared that the Federation and Indonesia were historically inseparable and that their friendship was inspired by ideals of freedom and justice. Throughout the visit members of the mission were treated with the greatest kindness and courtesy both by President Sukarno and other leaders as well as by the Indonesian people. The splendid success of this first goodwill mission from an independent Malaya to Indonesia

was considered a happy augury for future relations between the two countries.

At the end of the visit a Joint Communiqué* was issued which proposed, *inter alia*, the conclusion of a Treaty of Friendship which would not only serve to give formal expression to the close friendship which existed between the two countries and of their desire to strengthen it further but also provide the basis for cooperation and collaboration towards the growth of a common language and a common culture.

Soon after this decision was reached steps were immediately taken to draft the text of the Treaty and, when in April 1959 the late Dr. Djuanda, then Prime Minister of the Republic of Indonesia, paid a State Visit to the Federation, the opportunity was taken to finalise and sign the Treaty at Kuala Lumpur. The Treaty was warmly welcomed not only in Indonesia and the Federation but also by the rest of the world, because it formally signified the establishment of the close ties which are so essential for the well-being and peace in this region of Asia. It also represented the common desire of both peoples to bringing about mutual cooperation on matters affecting both countries, thereby providing the basis for much closer relations between them, a happy augury for peace, stability and progress in the area.

This was the first treaty signed by the newly independent Federation of Malaya and to date the only one of its kind. This treaty symbolised the very strong and sincere desire among the Malayan people to work closely with the Indonesian people. The text of the Treaty is attached as an Appendix† to this paper.

During his State Visit, the late Dr. Djuanda received a tremendous welcome and was given every courtesy and hospitality as befitting the Prime Minister of a very close and esteemed neighbour and a very good friend of the Federation. He was personally received on arrival by the Prime Minister, Tunku Abdul Rahman who spent much time with him even after Tunku Abdul Rahman resigned temporarily from the office of Prime Minister. Dr. Djuanda's visit was climaxed by the investment of one of Malaya's highest honours, the Seri Mangku Negara, by the Yang di-Pertuan Agong, and Dr. Prijono who accompanied Dr. Djuanda was made a Panglima Mangku Negara.

* Appendix I.

† Appendix II.

The existence of the Treaty of Friendship and Cultural Agreement gave bright prospects of very close and friendly relations with Indonesia and on its part the Federation Government lost no time in taking action to implement the various clauses contained in the Treaty. Groups of civic workers and other leaders were sent to Medan and Jakarta not only to study developments there but also to maintain friendly contacts with the Indonesian people especially with local leaders and the man-in-the-street.

On their part Indonesia sponsored an art exhibition in Kuala Lumpur in February, 1959. It was held at the National Art Gallery and participated by about 90 artists. The exhibition was attended by more than 6,000 persons.

In 1960 Indonesia sent a troupe of artistes to show examples of the rich and variegated culture of Indonesia. These cultural shows drew large audiences and revealed the close interest which the Malayan people have for Indonesia and there was no doubt that the shows provided a better understanding and appreciation of Indonesian life and culture. In 1962 the Indonesian Government kindly agreed to second one of their leading artistes. Bing Selamat, whose name is a household word in Southeast Asia, for a period with Radio Malaya in order to train Malayan musicians and artistes. In the Koran Reading Competition in 1961 Indonesia sent a delegation together with their Minister of Religious Affairs, Kiai Hj. Wahib Wahab, who brought a proposal for the holding of an Afro-Asian Koran Reading Competition to be held in Djakarta the following year. From 1962 onwards Indonesia sent no further delegation to the Annual Koran Reading Competition. The Federation Government also received a number of scholarships from the Indonesian Government.

In October, 1960, General Abdul Haris Nasution, Chief of Staff of the Indonesian National Army, together with his wife and a group of other officials, visited the Federation and was given every courtesy and hospitality. His programme in the Federation included visits to various military establishments and meetings with the Prime Minister and high officials, both of the Government and Armed Services of the Federation. After his return to Djakarta General Nasution wrote to the Deputy Prime Minister expressing his gratitude for the courtesy and hospitality which was shown to him and he expressed the hope that the close ties of blood and friendship between the two nations would last forever.

Early in 1961 disastrous floods occurred in West Java rendering tens of thousands of Indonesians homeless and destroying thousands of acres

of rice fields. As an expression of sympathy for those who suffered in the floods the Federation Government gave assistance in food and clothing. The Prime Minister personally wrote to his counterpart, the late Dr. Djuanda expressing his sympathies.

One of the most important clauses in the Treaty of Friendship and Cultural Agreement related to the closer collaboration and cooperation in enlarging and developing the Malay and Indonesian languages so that the differences between the two could be reduced to the minimum. It was hoped that in the future the two nations would have one common language thus paving the way for greater understanding between the peoples of the two countries. The Federation Government therefore proceeded with its plans for the introduction of reforms which would facilitate this objective.

In December, 1959 a delegation led by the Director of Dewan Bahasa, Tuan Syed Nasir Ismail, went to Indonesia for discussions with the Indonesian Language Implementation Committee. After deliberations lasting several days agreement was finally reached between the two official delegations as to a new spelling system to be introduced in both countries, and it was agreed further that as soon as the respective governments had given approval to the new system there would be a simultaneous announcement of the date for the adoption of the new spelling system and the effective date on which it was to be implemented. It was then hoped that the date would not be later than January, 1961. When the proposal was put to the Federation Government it quickly gave approval to the recommended spelling system and to its adoption from the date which would be agreed upon between the two governments. This was made known to the Indonesian Government, but the Indonesian Government had made no decision as to the adoption of this new spelling system.

Early in 1959, the Prime Minister made a major proposal for closer association and cooperation among the nations in Southeast Asia, which was within the scope of the Treaty insofar as it concerned relations between the Federation and Indonesia. This proposal was the setting up of an organisation which would provide the basis for facilitating cooperation and collaboration in the economic, cultural and social fields. Even before the matter was put officially to the Indonesian Government, the Indonesian Government spokesman as well as the Indonesian press launched a scathing attack on the whole concept. Despite the unfavourable reaction, in October 1959, the Prime Minister wrote to

President Sukarno as well as to other Southeast Asian leaders outlining in greater detail what he had in mind and proposing a meeting to be held early in 1960 at a place to be decided upon in order to examine further the proposal and to exchange views.* President Sukarno replied in January, 1960, rejecting the proposal of a multilateral relation among nations in Southeast Asia because he believed that it would only give rise to undesirable speculations on the part of other nations and that it would prevent the attainment of the desired objective of close cooperation. Instead, the President favoured bilateral arrangements.†

Despite the refusal on the part of Indonesia to associate with the Prime Minister's proposal the Federation Government went ahead and, eventually, the Association of Southeast Asia or ASA as it later became commonly known was formed, the members, apart from the Federation, being the Philippines and Thailand. The progress of this Association since its inception has amply demonstrated to the world the value of close multilateral association in the economic, social and cultural fields.

In 1957 the PRRI rebellion broke out in Indonesia. In conformity with the spirit of friendship and in accordance with international practice the Federation Government adopted a position of strict non-involvement and considered the rebellion to be purely an internal matter for the Indonesian people. Furthermore, the Indonesian Government did not declare a state of insurgency.

This attitude of the Federation Government came under bitter criticism by the Indonesian Government who urged the Federation Government to adopt the extraordinary stand of taking active measures to assist the Indonesian Government in its campaign to suppress the rebellion.

One of the questions which was brought up by Indonesia during this period was that concerning the grant by the Federation Government of political asylum to a number of rebels. Towards the latter part of the rebellion some Indonesian rebels, realising that their cause was bound to fail, escaped to the Federation to seek asylum here rather than give themselves up to the Indonesian Government who then had not yet issued their amnesty offer. For purely humanitarian reasons the Prime Minister acceded to their request but only after obtaining an undertaking from

* Appendix III.

† Appendix IV.

them that they would not participate in any further activities aimed at overthrowing the Government with which the Federation Government was in the closest and friendliest terms. This was strictly in conformity with international law and practice.

During the early part of the rebellion a number of Indonesians who were alleged to be taking part in the rebellion had been visiting and staying in the Federation. In this regard, the Federation Government was placed in a very awkward and difficult position, because these visitors were in possession of valid travel documents issued by the Indonesian Government which the Federation Government was bound to honour; but the Indonesian Government alleged that the Federation by this action was actively giving help to the rebels. This problem was put to the Indonesian Government and eventually they decided to cancel the travel documents of persons believed to be actively engaged in the rebellion and in the spirit of close cooperation and friendship the Federation Government took immediate action by refusing entry into the Federation of holders of such disowned or cancelled documents. A close liaison was kept with the Indonesian Embassy in Kuala Lumpur in this regard.

In January 1960, 30 Indonesians were found to have landed illegally in Penang and were arrested. The Indonesian Embassy claimed that these people were rebels and requested that they be handed over to the Indonesian authorities. The Federation Government could not accede to this request because that would be tantamount to recognising a state of insurgency in Indonesia in which case the proper procedure would have been to intern these alleged rebels. It was explained to the Indonesian *Charge d'Affaires* in Kuala Lumpur that in the interest of close relations between the Federation and Indonesia no action should be taken which would indicate that the Federation was giving cognizance to a state of civil war in Indonesia. The Indonesian *Charge d'Affaires* appreciated this stand and expressed gratitude for it. Accordingly, the 30 Indonesians were regarded as illegal entrants and were prosecuted in accordance with the law. Subsequently, they were told to leave the territorial limits of the Federation.

On 28th January, 1960, Dr. Subandrio, the Indonesian Minister of Foreign Affairs, acting in accordance with the clause of the Treaty of Friendship which provided that the two countries agree to consider the signing of an Extradition agreement, wrote to the Federation's Minister of External Affairs proposing that an extradition treaty be concluded

between Indonesia and the Federation.* Having an extradition treaty is a common practice between close neighbours on the friendliest relations and the proposal normally would have received a favourable consideration if not for the fact that the letter referred to above contained the unprecedented request for an extradition of political refugees.

Accordingly, the Federation's Minister of External Affairs drew the attention of the Indonesian Government to the irregularity of such a treaty, for extradition arrangement should only cover criminal offenders.† No reply has since been received to this letter but apparently, from comments which appeared in several leading Indonesian newspapers, this reply has been regarded by the Indonesian Government as substantiating their allegation that the Federation Government was actively aiding and abetting the Indonesian rebels.

In October 1960, a request was received by the Federation Government from a group of Indonesians who were formerly members of various Indonesian diplomatic missions in Europe who, during the rebellion, had defected to the rebel movement to be given political asylum in the Federation. At first the Federation Government turned down the request but, owing to repeated pleas and taking into account their pathetic plight, the Federation Government acceded to their request after obtaining an undertaking from them that they would not engage in any political activities.

It is clear that in keeping with the Federation's policy of maintaining the most cordial and closest relationship with Indonesia, the stand of non-involvement adopted during the rebellion was in the best interests of both countries. The policy of non-interference in the rebellion enabled the Indonesian Government to have a much freer hand in dealing with their internal situation and the granting of political asylum to certain Indonesian rebels, whose number indeed was very small, while consistent with humanitarian considerations, ensured that these so-called rebels would not participate in activities which would be harmful to the Indonesian Government. Indeed, it was this act of the Indonesian Government which made it possible for the Indonesian authorities to contact them in the Federation and offer them amnesty which the majority of them accepted.

* Appendix V.

† Appendix VI.

In this connection it may be mentioned that prior to Merdeka a number of Malaysians had left their own shores for Indonesia to escape arrest by the authorities for activities aimed at overthrowing the then government. Some were communists who were connected with the terrorist movement during the Emergency, while some were nationalists, many of whom when in Indonesia came under the influence of extremists and communists and became their fellow-travellers. Prominent among the latter group was one Ibrahim bin Haji Yaacob who was connected with the Kesatuan Melayu Muda, a body declared illegal soon after the outbreak of World War II. He became a prominent member of the Partai Nasional Indonesia changing his name to that of Iskandar Kamil and with Indonesian support led a movement aimed at making the Federation a part of Indonesia. Even after Merdeka, Ibrahim bin Haji Yaacob continued his activities and it was known that he was in contact with extremists and communists in the Federation. He has been leading a movement called the Kesatuan Melayu Merdeka based in Medan which has as its objective the overthrow of the present government. Among its activities is the operation of a radio station spewing propaganda lies and hatred against the Malaysian Government.

In 1957 the Indonesian Government issued a decree extending the territorial waters of Indonesia up to 12 miles from the outermost limits of Indonesian territory and that all waters separating the Indonesian islands were declared territorial waters. Thus, the Indonesian Government did without the normal courtesy of informing, if not consulting, its neighbour whose territorial waters are affected by this claim, despite the fact that in certain parts of the Straits of Malacca Indonesian territorial waters as now claimed overlapped Federation territorial waters which conform with the practice of three miles. In addition, the Indonesian Government closed certain areas which they certainly knew were traditional fishing areas for Malayan fishermen. Thus by this act they had deprived hundreds of fishermen of their livelihood. Those who dared to continue to fish in their traditional fishing grounds were arrested by the Indonesian authorities and molested and their catch and other properties confiscated.

Since August, 1957, there has been a long series of incidents in the Straits of Malacca which had placed small boats plying in the Straits of Malacca either for fishing or trade in considerable danger. These incidents had taken the form of intrusions by Indonesian gunboats into Federation waters in the most blatant manner followed by acts of piracy and other misdeeds. In some cases Malayan traders and fishermen were

severely manhandled and some were brought to Indonesia and imprisoned or fined without proper trial.

Strong protests were made to the Indonesian Government from time to time without avail. In 1960 alone there were 31 violations of Federation territorial waters by Indonesian gunboats, defence motor launches and patrol crafts. In some cases these craft came so close to the Federation's coast that the nature and type of crafts could easily be identified by people standing along the shore. In addition, cases of piracy in the Straits of Malacca have increased considerably due to the fact that pirates were able to seek shelter in the Indonesian waters where the authorities appeared to connive at their activities. In 1961, there were 21 cases of piracy and in 1962 the number of incidents increased to 24 and there might well have been a number of such incidents which were not reported to the Government. If not for the fact that the Federation Government have provided protection to small crafts and fishing in the Straits such incidents would have affected a considerable number of people whose livelihood depend on fishing and coastal trading in the Straits of Malacca.

Despite Indonesia's coolness towards the Federation's policy of strict non-involvement during the PRRI rebellion in Indonesia, the Federation Government pursued a policy of active friendship towards the Republic of Indonesia. This support has not been more convincingly displayed than in the question of Indonesia's claim over Irian Barat (West New Guinea).

At the 821st Plenary Meeting of the 14th Session of the United Nations General Assembly held on Monday, 5th October, 1959, Dr. Ismail bin Dato' Abdul Rahman, leader of the Federation delegation, referred to colonialism in general and to Dutch colonialism in West Irian in particular. He said *inter alia*:

"The Government of the Federation of Malaya condemns colonialism in any form, be it in West Irian, Algeria, Hungary or Tibet. The Federation of Malaya is pledged actively to support subject peoples of nations in their legitimate aspiration to self determination and independence.

Although the question of West Irian has not been included in the agenda of this Session of the General Assembly, my delegation nevertheless feels it necessary to express the profound regrets of the Government of the Federation of Malaya that no amicable

settlement of this question is yet in sight. I should like once again to reiterate that, in the view of my delegation, the question of West Irian is one of vestigial colonialism, and it is in this light that we must express our concern in this matter."

Dr. Ismail then referred to the Federation's relations with Indonesia in the following terms:

"One of the greatest events in the life of our young nation had been the conclusion this year of a Treaty of Friendship with Indonesia—the first of its kind entered into by the Federation of Malaya—reflecting our desire to restore those ties of race and culture with Indonesia; ties which were interrupted by the accidents of history."

However, the Federation Government was not content merely to pay lipservice to the ideal of freedom from colonialism and offered its good offices available to both parties in the West Irian dispute, the Republic of Indonesia and the Kingdom of the Netherlands. The Prime Minister, Tunku Abdul Rahman, wrote to President Sukarno on 20th September, 1960 to inquire whether the Federation could assist in bringing about a solution to the dispute which was fraught with immense danger to world peace and stability and, in particular, to the peace and stability of Southeast Asia, and he further put forward certain proposals which he considered would provide the basis for negotiation leading to a settlement of the dispute between Indonesia and the Netherlands over West Irian.

The essence of the Prime Minister's proposal was to transfer West Irian to the United Nations as trust territory with the purpose of an eventual transfer of the territory directly to the Republic of Indonesia and furthermore that the Trusteeship should not exceed a certain specified period.* The late Dr. Djuanda, who was then acting President of the Republic of Indonesia in the absence of President Sukarno who was abroad on vacation, replied to the Prime Minister's letter agreeing in principle to the proposal put forward and specifying that the period of trusteeship should not exceed that of one year.†

* Appendix VII

† Appendix VIII

In November, 1960, the Prime Minister, Tunku Abdul Rahman, went on an official visit to Canada and the United States. In his conversation with the leaders in Canada and in the United States the Prime Minister particularly stressed on the importance of finding a solution to the West Irian problem which he considered should not be left unsettled. A conflict would provide an opportunity for the communists to exploit the situation for their own ends. He told these leaders of his proposal for the settlement of the dispute and requested their full support and backing in his efforts to mediate between Indonesia and the Netherlands.

The Prime Minister also met the late Mr. Dag Hammarskjold the then Secretary-General of the United Nations and similarly expressed to him his fears regarding the security and peace of his part of the world if the West Irian problem remained unsettled. The late Mr. Dag Hammarskjold appreciated the position and promised his wholehearted support in the efforts of the Prime Minister. The efforts of the Prime Minister had made a deep impression on the United States Government which realised the need for the United States to take a much more active interest in this dispute between Indonesia and the Netherlands for the sake of peace in this region of Asia.

On his way back from his official visit the Prime Minister proceeded to the Netherlands and held preliminary discussions with the Netherlands Prime Minister, Dr Jan de Quay, Minister for Foreign Affairs, Mr. Luns, and the States Secretary for Netherlands in New Guinea, Mr Bot. At the end of his preliminary talk a Joint Communique was issued which revealed that the Netherlands Government was willing to subject their policy in Netherlands New Guinea to the security and judgment of the United Nations. This willingness on the part of the Netherlands did not by itself provide a solution to the West Irian dispute, but it indicated a significant departure from their hitherto intransigent position, a departure which could serve as a starting point from which further negotiations could be held which would facilitate convergence of Indonesian and Netherlands views on the West Irian problem. This willingness to subject their policies in Netherlands West New Guinea would facilitate the introduction of the United Nations into the problem. Bearing in mind the willingness of the Indonesian to agree to a U.N. Trusteeship as an intermediate step leading to the eventual transfer of Netherlands West New Guinea to Indonesia, it represented a step forward in the realisation of the Prime Minister's proposal for the solution of the West Irian dispute, to which the Indonesians had given their approval.

Unfortunately, however, before the Prime Minister could report to the Indonesian Government the substance of his discussions with the Netherlands Government, in fact before he arrived at Kuala Lumpur from Holland, the Indonesian Foreign Minister Dr. Subandrio, quick to find fault, attacked the efforts of the Prime Minister claiming that he had acted without referring the matter to Indonesia. According to him, the only solution to the West Irian dispute was a quick transfer of the administration of the territory to Indonesia and that it would serve no purpose to introduce the U.N. into the dispute, despite an agreement to the contrary from Dr. Djuanda in the capacity of Acting President. He stated that the only U.N. intervention in the matter which he could agree to was the supervision of the transfer of West Irian from the Netherlands to Indonesia.

A sustained attack by the Indonesian press on the efforts of the Prime Minister to mediate in the west Irian dispute followed the statement made by Dr. Subandrio. This press campaign ranged from mild reproach to bitter insinuations. "*Suluh Indonesia*" an organ of the Partai Nasional Indonesia (PNI), rejected internationalisation of West Irian and said that Indonesia was determined to recover West Irian with or without other people's assistance. It stated that foreigners should not, despite their goodwill, be welcome to the Indonesian people. "*Berita Indonesia*" accused the Prime Minister of not consulting the "leaders with authority" such as President Sukarno, Tun Djuanda, Leimena, Subandrio and Maladi. The "*Merdeka*" alleged that the Prime Minister had treated Indonesia as the accused before a court and as the guilty party in the dispute. According to "*Merdeka*" the Prime Minister was an agent of the British and of SEATO and only the Indonesian people and the Indonesian armed forces could solve the problem.

When the Federation Government made representations to the Indonesian Government over the Indonesian press campaign against the Prime Minister and Dr. Subandrio's premature criticism of the Prime Minister's peace efforts, Dr. Subandrio addressed a letter dated 30th November, 1960, to the Prime Minister in which he stated, *inter alia*:

"Rakjat dan Pemerintah Republic Indonesia sangat menghargai segala usaha Jang Mulia itu."

The letter was conveyed to the Prime Minister by a Mr. Suska, Head of the Directorate of Asian Pacific Affairs in the Indonesian Foreign Ministry. At a meeting held in Kuala Lumpur on the 1st December, 1960,

Mr. Suska informed the Prime Minister that the Federation Government had misunderstood Indonesia's position on this matter. When asked whether it was not true that once the principle of trusteeship was accepted, any claim of sovereignty must be surrendered, Mr. Suska agreed that this was so. It appeared that the Indonesian Government had reconsidered their position and would not after all agree to allow the United Nations to take over the territory of West Irian in trust for a period of one year and then turn it over to Indonesia.

As a gesture of goodwill towards Indonesia, so that unfavourable public reaction in Indonesia might be prevented, the Prime Minister informed Mr. Suska that the contents of Tun Djuanda's letter would not be divulged to the public. Mr. Suska was relieved and gave the assurance that no more press statements would be issued.

The Prime Minister then wrote a letter to President Sukarno on 3rd December, transmitting a report of his endeavour to obtain a settlement of this long and vexing problem of Irian Barat.* President Sukarno replied to the Prime Minister on 14th December.†

On the 5th December, 1960, a press report appeared in Djakarta to the effect that a senior Indonesian Government official had declared that the Indonesian Government believed that the Prime Minister, Tunku Abdul Rahman, had misused his rights as a mediator. A demarche in the form of a Note Verbale was immediately sent by the Ministry of External Affairs to the Indonesian Ambassador requesting the Indonesian Government to refute this statement. In delivering the Note to the Indonesian Ambassador, the Permanent Secretary for External Affairs, said that if the Indonesian Government chose to remain silent then the Federation Government would interpret such silence as an endorsement of that statement, and that should there be a deterioration in Federation-Indonesian relations as a consequence, the Indonesian Government alone would be held responsible.

On the 7th December, 1960, a spokesman of the Indonesian Foreign Ministry issued a press statement denying that a senior Indonesian official had made such a statement to the press. The Foreign Ministry spokesman added, "if such reports were published in Malayan newspapers then such reports were not originating (sic) from the Government of the Republic of Indonesia."

* Appendix IX.

† Appendix X.

Despite the Indonesian rebuff over the Prime Minister's attempts to mediate in the West Irian issue, the Federation Government consistently refused to grant facilities to the Netherlands Government in cases where the approval of such facilities would in the opinion of the Federation Government serve to increase tension in the area. Even after the West Irian issue had been settled when the Netherlands requested permission for their ships to stopover in Malaya en route from West Irian to Europe, the Federation Government would not give its approval. The Federation Government also made it quite clear to the British Government that it would take an unfavourable view of Netherlands troops going ashore at Singapore. As a result of the Government's firm attitude in this matter, Dutch troops did not land on Federation or Singapore soil but proceeded to Europe without delay. This is clear proof of the Federation Government's determination not only to preserve a strict policy of non-involvement in the Netherlands/Indonesia dispute but also to avoid taking any step which might offend against Indonesian susceptibilities.

Indonesia was giving the appearance of seizing control of West Irian by force of arms and began equipping herself with weapons bought largely from Russia. Guerilla fighters were dropped into Netherlands West New Guinea and the situation in the area became very tense, but fortunately the United States took active steps to bring about an amicable solution to the problem largely through the effort of Mr. Elsworth Bunker and eventually, the Bunker plan was accepted by both parties thus settling the whole dispute peacefully. The Bunker plan did not differ materially from the proposal made by the Prime Minister.

In May 1961, the Prime Minister put forward his historic proposal for the formation of Malaysia. H.M.M. Ambassador in Djakarta took steps to inform the Indonesian Government of this proposal and the initial Indonesian reaction was not unfriendly, which raised hopes in the Federation that the Indonesian Government had adopted a policy of genuine friendship and cooperation towards the Federation. On November 13, 1961, the Indonesian Foreign Minister, Dr. Subandrio, in a letter to the *New York Times* regarding West Irian *inter alia* wrote as follows:

"As an example of our honesty and lack of expansionist intent, one fourth of the island of Kalimantan (Borneo) consisting of three Crown Colonies of Great Britain, is now becoming the target of the Malayan Government for a merger. Of course, the people there are

ethnologically and geographically very close to the others living in the Indonesian territory. Still, we do not show any objection toward this Malayan policy of merger. On the contrary, we wish the Malayan Government well if it can succeed with this plan."

On the 20th November, 1961, in a statement made to the General Assembly of the United Nations on the question of West Irian, Dr. Subandrio said *inter alia*:

"We are not only disclaiming the territories outside the former Netherlands East Indies, though they are of the same island, but—more than that—when Malaya told us of its intentions to merge with the three (sic) British Crown Colonies of Sarawak, Brunei and British North Borneo as one Federation, we told them that we had no objections and that we wished them success with this merger so that everyone might live in peace and freedom.

For the sake of clarification, I may tell this Assembly that three-quarter of the island of Borneo is Indonesian territory, while the remainder constitutes the aforementioned three (sic) British Crown Colonies. Naturally, ethnologically and geographically speaking, this British part is closer to Indonesia than, let us say, to Malaya. But we still told Malaya that we had no objection to such a merger, based upon the will for freedom of the peoples concerned."

At the end of December, 1961, i.e., approximately 5 weeks after Dr. Subandrio's statement to the United Nations General Assembly in which he referred to the Malaysia Plan, the Central Committee of the Partai Komunis Indonesia passed a Resolution on Malaysia to the effect that Malaysia was a form of neocolonialism and that its purpose was to suppress "democratic and patriotic movements" of the people in the territories concerned and that it was a threat to peace and security in the area. The P.K.I. then called on the Indonesian people and Government to heighten national vigilance against the establishment of Malaysia and to support the resistance of the people in the territories which Malaysia was to comprise. The text of the resolution is attached as an Appendix.*

The Resolution by the Central Committee of the PKI, is one of the key factors in any assessment of the motivations of Indonesian policy towards Malaysia. The Resolution referred to Malaysia suppressing "the

* Appendix XI.

democratic and patriotic movements of the peoples in these 5 territories which aimed at the attainment of genuine national independence and freedom from imperialism."

Since the phrase "democratic and patriotic movements" in Marxist-Leninist jargon means precisely Communist and pro-Communist movements, the reason for the opposition by the PKI, the world's largest Communist Party in the non-Communist world, to Malaysia is obvious; this opposition is the direct result of the challenge which Malaysia poses to the overall Communist strategy in Southeast Asia. It is also noteworthy that the slogan "neocolonialism" in relation to Malaysia received its first public and definitive expression in the above resolution. Before long the PKI-instigated campaign against Malaysia succeeded in increasing tension between Indonesia and the Federation and in inciting Indonesian leaders, through the powerful Communist press and mass "front" organisations, to "confront" the Federation.

The PKI's opposition can be related to international Communist opposition to Malaysia in particular that of Communist China. When in 1959 Communist China annexed Tibet the Federation was in the forefront in condemning Communist China's aggression against the Tibetan people and the Federation was one of the principal sponsors of a Resolution in the United Nations General Assembly Session in 1959 condemning Communist China's denial of fundamental rights to the Tibetan people. In October, 1962, Communist China mounted a major offensive on the Sino-Indian Border annexing parts of Indian territory. The Federation immediately reacted to this act of aggression. The Prime Minister was forthright in his condemnation of Communist China and immediately launched a Fund to assist India to repel the Communist incursion into her territory. It is therefore significant that in the opposition to Malaysia, Indonesia was strongly supported by Communist China. In April, 1963, Liu Shao Chi, the Communist China's Vice-Chairman, visited Indonesia where he declared that Indonesia and China were "comrades in arms" and praised Indonesia's "just stand" in opposing the "neo-colonialist scheme of Malaysia and supporting the revolutionary struggle of the people of North Borneo." Before leaving Djakarta on 20th April Mr. Liu together with President Sukarno issued a Joint Communiqué which categorically declared their opposition to Malaysia and their determination to work together for the destruction of Malaysia.

Gradually, the Indonesian Press took its cue from the Communist Press and eventually, Malaysia was unanimously described as "neocolonialist tool of the imperialist powers." Early in 1962 the PKI implemented its Central Committee Resolution on December 1961 by launching an intensive attack against the Malaysia Plan. For example, on 4th October, 1962, "Harian Rakjat" revealed the sinister designs of the PKI when it predicted that Malaysia would not materialise by the 31st August, 1963, because of the victory of the Party Rakyat, Brunei, led by Sheikh A.M. Azahari, and the Philippine claim to North Borneo. The evolution of Indonesian policy towards Malaysia clearly demonstrates the role of Indonesian Communism in arousing national hostility towards Malaysia.

However, as late as November, 1962, the official Indonesian attitude to Malaysia appeared to remain uncommitted. Mr. Ruslan Abdul Gani, who was then Vice Chairman of the Indonesian Supreme Advisory Council, was reported to have said on his return from an unofficial visit to the Federation on 1st November, 1962, that he saw "positive and negative points in the plan to merge Singapore and the British Borneo territories into a Malaysia Federation." "The plan is still developing. Personally, I welcome any new country around us that wants to get rid of colonial chains," he added.

It was not until a few days after the revolt in Brunei broke out on the 8th December, 1962, and as mass rallies inspired and led by the PKI took place in Djakarta and elsewhere in Indonesia that a reversal in the Indonesian official attitude rapidly became apparent.

On 11th February, 1963, the Indonesian Foreign Minister Dr. Subandrio, at a press conference held at his home officially declared Indonesia's opposition to Malaysia.

On 13th February, President Sukarno declared that Indonesia's opposition to the proposed Malaysia Plan was not because of Communist influence but because Malaysia represented forces of neo-colonialism. On the other hand, Indonesia supported the Brunei rebels because they were fighting for independence against "Malaysian neo-colonialism". He added "nations who will become strong and famous nations should be ready to face moments of danger. To members of the armed forces I have stated that we are standing on a principle of anti-colonialism and anti-imperialism. We are supporting all nations who are struggling for their independence. What is the reason for our opposition to Malaysia? Malaysia is neo-colonialism and we do not agree with this." President

Sukarno also described the Malaysia Plan as an attempt "to save rubber, tin and oil for the imperialists" and went on to say "that's why now I declare officially that Indonesia opposes Malaysia." President Sukarno stressed that if the Prime Minister and the Federation leadership continued their present policy, Indonesia would have no choice but to face it with political and economic confrontation.

On 19th February, President Sukarno issued the following order to his troops : "You have carried out your duties successfully (in West Irian) but other duties are still not finished. Your fatherland still calls you to defend the Republic. Our struggle is not over yet. The Republic is still being undermined by threats while the enemy is besieging us. Therefore, keep on the alert and I order you to keep your weapons in your hands."

On 19th February, an Indonesian naval patrol intercepted a Malayan fishing vessel, towed it to Belawan harbour in Northern Sumatra and took the crew into custody. The Commander of the First Navy Maritime District (North and Central Sumatra) was reported by Antara to have ordered his forces to "burn on the spot" any Malayan fishing boat caught in Indonesian waters.

The Indonesian Government justified its so called "confrontation" against the Federation for an ever-increasing number of reasons. These included the charges that the Federation had always been hostile to Indonesia, that the Federation had tried to "annex" Sumatra during the PRRI revolt, that Malaysia is a "neo-colonialist" plot, that the Federation was trying to "encircle" Indonesia, that Malaysia is against the "Revolution of Mankind" and the "New Emerging Forces", that Malaysia would be used as a "base for foreign domination", that Malaysia would become a "haven for the economic subversion of Indonesia", etc. This farrago of lies and distortions was rapidly built up through the press, radio and statements by leaders of the Government and pro-Sukarno political parties and organs. But this smokescreen of wild and emotional charges could not obscure the following facts:

- (a) Before the proposal for the establishment of Malaysia was made Indonesia had never expressed concern over the presence of British bases in Southeast Asia. The first public expression of hostility in Indonesia towards the Anglo-Malayan Treaty of Defence and Mutual Assistance was made in December 1961 in the Resolution of the PKI Central Committee. It is also a fact that practically all the turgid

Marxist-Leninist jargon contained in that Resolution has since been parroted by the entire Government-controlled press and radio and by the Indonesian leaders themselves.

- (b) The Indonesian Government's complicity in the Brunei rebellion was expressed when the Federation Government announced on December 11, 1962, that groups of Brunei rebels had received military training in Indonesian Borneo. This was later admitted by the Indonesian authorities.
- (c) The Indonesian Government officially support a fictitious "sovereign" state described as "The Unitary State of Kalimantan Utara" (comprising Sarawak, Brunei and Sabah) which has a spurious propaganda organisation including its own radio station.
- (d) The Indonesian Government is using Sheikh A.M. Azahari as a tool of Indonesian propaganda.
- (e) The Indonesian Government began to advocate openly the use of force by "freedom fighters" against "neo-colonialism" in "Kalimantan Utara" and this was reinforced by "physical confrontation", i.e., the threat of force by Indonesia herself.

This brazen interference in the internal affairs of the Borneo States was accompanied by virulent press and radio attacks on the Federation Government and on the person of its Prime Minister. The object of these attacks was clearly to arouse hatred against the Federation Government and thereby to incite the people, as the Deputy Secretary-General of the Indonesian Government-sponsored National Front Convention suggested on the 18th February, 1963, "to act to topple their own Prime Minister". Dr. Subandrio himself was responsible for one of the most venomous attacks on the Prime Minister when he accused the Prime Minister of seeking to annex Sumatra in 1957 because "he needs Indonesia badly to face Chinese equality with the Malays inside Malaya".

One of the most blatant insults to the Federation was made by President Sukarno during an official Reception given by him in honour of the delegates to the Asian-African Journalists Conference held in Djakarta in April, 1963, when he called upon the gathering to sing a popular version of a tune which had become the National Anthem of the Federation. In August, 1957, when it was announced that this tune had

been selected to be the National Anthem of the Federation the Indonesian Government issued a decree banning the singing or playing of this song in Indonesia. By this action the President had shown to the journalists present and to the whole world the contempt he had for the Federation.

In February, 1963, the Vice-President of the Philippines, Mr. Emmanuel Pelaez on his way back to Manila from the Anglo-Philippines Talks, proposed a Summit Meeting among President Macapagal, President Sukarno and the Prime Minister in order to discuss the differences which had arisen as a result of the proposal for the formation of Malaysia with a view to arriving, if possible, at an amicable solution in the interest of peace and security and good neighbourly relations in the area and especially among the Malay nations. The proposal for the Summit Meeting was immediately welcomed by the Prime Minister, but on the other hand President Sukarno was rather non-committal. The Philippine Government pursued the matter further during the ECAFE Ministerial Conference in Manila and as a result of exchange of views among the Deputy Prime Minister, who led the Federation delegation to the Conference, Dr. Subandrio, the Indonesian Foreign Minister who was the leader of the Indonesian delegation, and Vice-President Emmanuel Pelaez of the Philippines, it was agreed that Talks at Foreign Ministers' level should be held in Manila to be preceded by one at Sub-Ministerial level in order to draw up the agenda for the Talks.

The Tripartite Talks at Sub-Ministerial level was held from April 9 to 17 in Manila with Indonesia represented by Dr. Suwito Kusumowidagdo, First Deputy Foreign Minister; the Federation by Enche' M. Ghazali bin Shafie, Permanent Secretary for External Affairs; and the Philippines by Mr. Salvador P. Lopez, Under-Secretary for Foreign Affairs. The Agenda and the procedure for the Tripartite Talks were discussed and it was agreed that the Agenda should be :

- (i) A general exchange of views on current problems concerning stability, security, economic development and social progress of each country and of the region as a whole and exposition of the efforts being exerted by the three countries either individually or jointly to solve them;
- (ii) Discussion of ways and means by which the three countries can achieve closer co-operation and assist one another in solving the problems referred to above on the basis of mutual

respect and consistent with their national, regional and international responsibilities and obligations.

Early in April 1963 the Prime Minister while leading the Federation Delegation to the ASA Foreign Ministers' Meeting met President Macapagal several times and reaffirmed his willingness to attend a Summit Meeting with President Macapagal and President Sukarno in an honest and sincere endeavour to settle their differences and to remove any misunderstanding among themselves in the interest of peace and security and close relations among the three countries. On May 31, 1963, in order to pave the way for a successful Summit Meeting and to create an atmosphere which would be conducive towards the lessening of tension in the area the Prime Minister went out of his way to meet President Sukarno who was in Tokyo on a vacation at the invitation of the latter. The meeting was held in an atmosphere of bonhomie and warm friendship. At this meeting the Prime Minister explained to President Sukarno that he was going to London to sign an Agreement which would fix the date for Malaysia on 31st August, 1963, President Sukarno asked if the date could be varied or postponed. The Prime Minister explained that for various reasons it would not be desirable to postpone the Malaysia date to any day later than 31st August. President Sukarno did not express any objection after that and appeared to have appreciated the Malayan view point. The two leaders then issued a joint statement in which they reaffirmed their sincere desire to settle their differences and to meet together with President Macapagal in Manila.* These peace efforts brought about a significant reduction in the tense relation between the Federation and Indonesia whose confrontation activities were lessened.

On July 9, 1963, an Agreement was signed in London which provided for the establishment of Malaysia on 31st August, 1963. President Sukarno then accused the Prime Minister of breaking a promise which he alleged the Prime Minister had made to him during their Tokyo Meeting when he claimed the Prime Minister had agreed not to proceed with the formation of Malaysia until after the Summit Meeting. This was flatly denied by the Federation Government, and the Indonesian Government could not plead ignorance of the Federation Government's intention to finalise the London Agreement since the Tripartite Foreign Ministers

* Appendix XII.

themselves had to adjust the dates for the meeting at a Summit level taking into account the dates of the London Meeting. At neither the Sub-Ministerial nor the Ministerial Talks had the Indonesian representatives voiced any objection to, or doubts about, the Federation Government's intention to proceed with Malaysia.

President Sukarno claimed that he had been personally insulted and renewed his confrontation policy against the Federation while simultaneously threatening to frustrate the efforts of the Philippine Government to convene a Summit Meeting.

The Prime Minister while refuting President Sukarno's charges nevertheless asserted that he still stood by his promises to attend a Summit Conference in a sincere and earnest desire to resolve their differences and to bring about happy and cordial relations among the three countries. The holding of the Summit Conference was scheduled for 30th July to 5th August, 1963 and it was in doubt until the eleventh hour when the Indonesian President agreed to go to Manila for the Meeting.

The Summit Conference ended on a note of relief, if not optimism, since President Sukarno agreed, firstly, to welcome the formation of Malaysia provided the United Nations Secretary-General or his representative ascertained that the majority of the people in Sarawak and Sabah supported its establishment, and secondly, by agreeing to take initial steps towards the establishment of Maphilindo by the holding of frequent and regular consultations at all levels. Furthermore, the recommendations of the Foreign Ministers were accepted by President Sukarno and a declaration was issued by the three leaders in which was embodied the "common aspiration and objectives" of the peoples and Governments of the three countries and in which the three leaders pledged themselves to co-operate and work together in the common interest of their countries for their economic, social and cultural progress and to maintain better relations in the interests of peace and security in the region.

With reference to the Recommendations regarding the ascertainment of the wishes of the people in Sabah and Sarawak in regard to Malaysia the Summit spelt out certain details regarding the manner in which the United Nations Secretary-General was to carry out his task. The Secretary-General or his representative was asked to carry out his task within the context of General Assembly Resolution 1541 (xv) Principle IX of Annex by a fresh approach which in the opinion of the

Secretary-General was necessary to ensure complete compliance with the principle of self-determination with the requirements embodied in Principle IX taking into consideration :

- (i) the recent elections in Sabah and Sarawak but nevertheless further examining, verifying and satisfying himself as to whether :
 - (a) Malaysia was a major issue, if not the main issue,
 - (b) electoral registers were properly compiled,
 - (c) elections were free and there was no coercion, and
 - (d) votes were properly polled and properly counted; and
- (ii) the wishes of those who, being qualified to vote, would have exercised their right of self-determination in the recent elections had it not been for their detention for political activities, imprisonment for political offences or absence from Sabah or Sarawak.

In addition the Federation Government undertook to consult the British Government and the Governments of Sabah and Sarawak in order to enable the Secretary-General or his representative to carry out his task. Further the three Heads of Government considered it desirable to send observers to witness the carrying out of the task to be undertaken by the United Nations and that the Federation Government would obtain the co-operation of the governments concerned in this regard. The texts of the documents signed in Manila—the Manila Declaration, the Manila Accord and the Joint Statement are attached respectively as Appendices.*

One matter is worth recalling here and that is on the subject of observers. When agreement was reached there was no mention of observers but the Prime Minister had agreed to allow observers as a result of a request by Dr. Subandrio and by way of showing favour to Indonesia. It was, however, stressed that observers should not participate in the discussion, or take any part in the work of the U.N. Team.

They were there only to see that the U.N. Team did its work well and in strict observance of the terms of reference given to the Secretary-General.

Insofar as the relationship between the Federation and Indonesia was concerned the Summit Conference closed with a happy augury. There was rejoicing in the Federation at the successful outcome of the Summit

* Appendices XII, XIII and XIV.

Conference because the people felt that at last the way was open for close and friendly relations between the two countries and that the people were willing to let "by-gones be by-gones" and to look instead to a happy future.

However, the hopes of the people were soon dashed to pieces for even before the ink on the Manila Accord was dry, the Indonesian Government announced that the policy of confrontation against Malaysia would continue despite the settlement arrived at in Manila. Furthermore the Indonesian Government, followed by the Philippine Government, put difficulties in the way of the Secretary-General of the United Nations in his effort to help.

Indonesia insisted that she be allowed to send a team of thirty persons as observers and signified that she would not accept the findings of the U.N. teams unless her request was approved. The British Government refused to accede to the request and would only agree to four observers. Thirty was considered too many and it was impossible to provide suitable accommodation. Later, however, after representations were made by the Federation Government to the British Government and as a result of the efforts of U Thant, the Secretary-General of United Nations, Indonesia and the Philippines agreed to eight persons, four clerical assistants and four observers. However, matters were further held up because the four clerical assistants from Indonesia were refused facilities on the grounds that these persons were not clerical assistants but were senior officials and furthermore some of them were intelligence officers. Eventually, however, matters were sorted out but it resulted in the holding up of the work of the U.N. Survey Team for one week and in their carrying out part of their work in the absence of the observers who were able only to witness the survey towards the closing stages.

Insofar as the question of observers was concerned the figure of four allowed by the British Government was acceptable to the Federation Government, whose attitude on the whole controversy was that the observers were not an integral part of the ascertainment exercise nor were they essential in view of the fact that the Manila Agreement merely stated that the three Governments considered it "desirable" to have observers present during the ascertainment exercise.

A number of the Indonesian observers including the leader, Brig. Otto Abdul Rachman and his deputy returned to Djakarta before the work had actually been completed. Brig. Otto Abdul Rachman made a press statement that the U.N. assessment team had "worked very hard" and conducted its survey "impartially".

The Federation Government was watching the progress of the U Thant survey team. It became clear that the work could not be completed by 31st August, 1963. The Federation Government had agreed in Manila that the ascertainment by U Thant should be made prior to the establishment of Malaysia. There was considerable agitation particularly in Singapore, Sabah and Sarawak that Malaysia Day should not be deferred. The Federation Government however firmly adhered to the Manila Agreement and obtained the approval of Parliament to vary the date so that Malaysia could be established after U Thant had completed his task in accordance with what was agreed to in Manila.

In accordance with Section II of the Malaysia Act it became a statutory requirement that the new date for the formation of Malaysia be proclaimed before 31st August, 1963. Advance information and the reasons for the Federation Government's decision to announce the new date were forwarded to the Indonesian Government beforehand. It was also necessary to inform the British Government which was then legally and constitutionally responsible for Sabah, Sarawak and Singapore, and the British Government had to make the necessary amendments to the documents consequent upon the postponement of the date of Malaysia. Dr. Subandrio was invited to come to Singapore to meet the Federation's Deputy Prime Minister so that the latter could inform him of the new date for Malaysia and to explain personally the reasons therefor. Dr. Subandrio pleaded illness and, therefore, the Federation Government sent the Permanent Secretary for External Affairs to Djakarta on 28th August to meet Dr. Subandrio. It was pointed out to the Indonesian Government that in view of the Federation's constitutional obligations and the United Nations Secretary-General's indication to the three parties that the task of ascertainment was expected to be completed and the findings made known by the 14th September, 1963, the Federation Government's decision to announce 16th September as the new date for Malaysia was fully consistent with both the spirit and the letter of the Manila Accord.

The Federation's strict adherence to the Manila agreement was to enable the Governments of the Philippines and Indonesia to "welcome the formation of Malaysia."

On 14th September, 1963, the U.N. Secretary-General published his Report which stated that a great majority of the people in Sabah and Sarawak were in favour of Malaysia. Instead of welcoming Malaysia, as it was bound to do under the Manila Accord, the Indonesian Government

chose to criticise the manner in which the Secretary-General had conducted his Survey and rejected the findings of the Secretary-General.

On 16th September the Indonesian Foreign Minister, Dr Subandrio summoned the Malaysian Ambassador, Dato' Haji Kamaruddin and informed him that as from that date he had no status in Indonesia. This was tantamount to severance of diplomatic relations with Malaysia and accordingly the Malaysian Government had no choice but to withdraw immediately its diplomatic mission from Djakarta. This was followed by most atrocious and uncivilised behaviour on the part of the Front Nasional, a Communist dominated organisation led by a Minister of the Government, which committed acts of arson, pillage and destruction on Malaysian properties and buildings in Djakarta. Properties owned by Malaysians in Indonesia have been confiscated and other acts violating international rules might be expected from Indonesia in furtherance of her policy of confrontation against Malaysia.

APPENDIX I

Goodwill Visit to Indonesia—Joint Communiqué

At the invitation of the Government of the Republic of Indonesia the Goodwill Mission of the Persekutuan Tanah Melayu headed by Dato' Abdul Razak bin Dato' Hussein, the Deputy Prime Minister and concurrently Minister of Defence, arrived at Djakarta on 19th of November for a visit of Indonesia which lasted until today. Included in the Mission is Enche' Khir bin Johari, the Minister of Education.

2. The Mission visited several places to observe objects of military, educational and cultural importance.

3. The Mission was received by His Excellency President Soekarno and held discussions with Indonesian authorities. It also visited the Parliament and National Council where they were received by respectively the Speaker and the Deputy Chairman.

4. At the conclusion of the visit, the First Deputy Prime Minister and concurrently Minister for Foreign Affairs *ad interim* of the Republic of Indonesia, Dr. Hardi, and the Deputy Prime Minister and concurrently Minister of Defence of the Persekutuan Tanah Melayu, Dato' Abdul Razak bin Dato' Hussein, agreed to state jointly the following:

5. As a result of the discussions held during the visit of the Mission, an agreement was reached, *inter alia* on the following points :

1. There exist ties of tradition, culture and kinship between the people of Indonesia and the people of the Persekutuan Tanah Melayu as well as mutual interests in various fields which must be maintained and strengthened as best as possible for the mutual benefit of both countries.
2. The contacts made between the Mission and the people of Indonesia during this first visit of a Goodwill Mission from an independent Persekutuan Tanah Melayu have rendered it even more evident to both the Mission and the Government of the Republic of Indonesia that the peoples of the two countries were closely bound to each other by ties of history, race, language and culture.
3. The Mission and the Government of the Republic of Indonesia would wish to affirm the desirability of the two Governments to closely co-operate and collaborate in the promotion of the national languages and cultures, and to this end, appropriate

language and cultural bodies in the two countries should take concrete steps to exchange and interchange cultural groups and studies, and also to discuss ways and means of adopting a uniform spelling system and its usages for both languages.

4. In order to bring about closer co-operation and to strengthen further the already close ties of friendship existing between the two countries, the Mission and representatives of the Government of the Republic of Indonesia exchanged views on matters of common interest and mutual benefit, and in particular as a first step thoroughly examined the possibility of concluding a Treaty of Friendship and Cultural Agreement between the two countries. The representatives of the Government of the Republic of Indonesia and the Goodwill Mission also discussed detailed provisions and already reached an agreement, that such a treaty and agreement should be signed in the near future at Kuala Lumpur.
5. The Government of the Republic of Indonesia and the Mission of the Persekutuan Tanah Melayu are convinced, that the visit of the Mission of the Persekutuan Tanah Melayu to Indonesia has brought both parties to a more profound mutual understanding, and that the results achieved during this visit can be used as a more concrete basis to strengthen still further the existing ties of friendship, kinship and the co-operative spirit between the peoples of Indonesia and the Persekutuan Tanah Melayu.

First Deputy Prime Minister and
concurrently Minister for
Foreign Affairs *ad interim* of the
Republic of Indonesia.

DR. HARDI

DJAKARTA,

November the 26th, 1958.

Deputy Prime Minister and
concurrently Minister of Defence
of the Persekutuan Tanah
Melayu,

DATO' ABDUL RAZAK BIN
DATO' HUSSEIN

PERNJATAAN BERSAMA

Atas undangan Pemerintah Republik Indonesia, Perutusan Muhibah Persekutuan Tanah Melayu dibawah pimpinan Dato Abdul Razak bin Dato Hussein, Wakil Perdana Menteri merangkap Menteri Pertahanan, tiba di Djakarta pada tanggal 9 Nopember untuk mengadakan kunjungan di Indonesia jang berlangsung sampai hari ini. Dalam Perutusan itu termasuk Inche Khir bin Johari, Menteri Pengadjaran.

2. Perutusan telah mengadakan kunjungan-kunjungan ke-berbagai tempat untuk meninjau objek-objek militer, pendidikan dan kebudajaan.

3. Perutusan telah diterima oleh Paduka Jang Mulia Presiden Soekarno, dan telah mengadakan perundingan-perundingan dengan pembesar-pembesar Indonesia. Perutusan djuga mengundjungi Dewan Perwakilan Rakjat dan Dewan Nasional dimana mereka diterima masing-masing oleh Ketua Dewan Perwakilan Rakjat dan Wakil Ketua Dewan Nasional.

4. Pada achir kunjungan itu, Wakil Perdana Menteri Pertama merangkap Menteri Luar Negeri ad interim Republik Indonesia, Mr. Hardi, dan Wakil Perdana Menteri merangkap Menteri Pertahanan Persekutuan Tanah Melayu, Dato Abdul Razak bin Dato Hussein, telah bersepakat untuk bersama-sama mengumumkan seperti berikut:

Dari perundingan-perundingan jang telah diadakan selama kunjungan itu telah tertjapai kata sepakat antara lain mengenai hal-hal berikut:

1. Antara rakjat Indonesia dan rakjat Persekutuan Tanah Melayu terdapat ikatan-ikatan tradisi, keturunan dan ke-keluargaan, serta kepentingan-kepentingan bersama diberbagai lapangan jang perlu diselenggarakan dan diperkuat sebaik-baiknya untuk manfaat kedua belah pihak.
2. Hubungan-hubungan jang diadakan antara Perutusan dan rakjat Indonesia selama kunjungan pertama Perutusan Muhibah dari Persekutuan Tanah Melayu merdeka ini memberikan suatu bukti kepada Perutusan dan Pemerintah Republik Indonesia, bahwa rakjat dari kedua negara itu satu sama lain erat hubungannya karena ikatan-ikatan sedjarah, keturunan, bahasa dan kebudajaanja.
3. Perutusan dan Pemerintah Republik Indonesia ingin sekali menegaskan bahwa kedua Pemerintah menghendaki kerdja

sama jang erat dan bantu-membantu dalam usahanja memajukan bahasa dan kebudajaan nasional dan untuk maksud itu badan-badan bahasa dan kebuda-jaan jang lajak dikedua negara perlu mengambil langkah-langkah untuk tukar menukar rombongan-rombongan kebudajaan dan pengetahuan, dan djuga untuk membitjarakan tjara-tjara mentijiptakan persamaan sistim edjaan kedua bahasa den penggunaannja.

4. Untuk mewedjudkhan kerdja sama jang lebih erat dan untuk lebih memperkuat tali persahabatan jang erat jang telah ada diantara kedua negara, Perutusan dan wakil-wakil Pemerintah Republik Indonesia telah mengadakan tukar menukar pandangan tentang soal-soal mengenai kepentingan bersama jang berguna bagi kedua belah fihak, dan chususnja sebagai langkah pertama telah mempeladjar sedalam-dalamnja kemungkinan untuk meng-adakan Perdjudjian Persahabatan dan Persetudjuan Kebudajaan antara kedua negara. Wakil-wakil Pemerintah Republik Indonesia dan Perutusan Muhibah telah membitjarakan djuga perintijan-perintjiannja dan telah tertjapai kata sepakat bahwa perdjudjian dan persetudjuan seperti itu sebaik-baiknja ditanda tangani dalam waktu singkat di Kuala Lumpur.
5. Pemerintah Republik Indonesia dan Perutusan Persekutuan Tanah Melayu mempunjai kejakinan sepenuhnya, bahwa kundjungan Perutusan Persekutuan Tanah Melayu ke Indonesia ini telah lebih menambah saling pengertian jang mendalam, dan bahwa hasil-hasil jang telah ditjapai selama kundjungan itu dapat dipergunakan sebagai dasar jang lebih njata untuk tambah mempererat lagi hubungan persahabatan dan kekeluargaan serta kerdja sama jang selama ini telah terdjalin antara rakjat Indonesia dan rakjat Persekutuan Tanah Melayu.

Wakil Perdana Menteri Pertama
merangkap Menteri Luar Negeri
ad interim Republik Indonesia,

MR. HARDI

Wakil Perdana Menteri
merangkap Menteri Pertahanan
Persekutuan Tanah Melayu,

DATO ABDUL RAZAK BIN
DATO HUSSEIN

DJAKARTA,
26. Nopember, 1958.

APPENDIX II

Treaty of Friendship between Federation of Malaya/Indonesia

JANG MULIA DATO' ABDUL RAZAK BIN DATO' HUSSEIN,
PERDANA MENTERI, PERSEKUTUAN TANAH MELAYU

JANG MULIA IR. H. DJUANDA KARTAWIDJAJA
PERDANA MENTERI, REPUBLIK INDONESIA

Jang satelah saling memeriksa surat-surat kepertjajaan masing-masing dan mendapatkannja benar serta dalam keadaan baik, menjetudjui pasal-pasal sebagai berikut:

PASAL I

1. Kedua Pihak Agung jang Berdjandji akan saling menghormati kemerdekaan dan kedaulatan masing-masing serta akan berusaha untuk memelihara hubungan-hubungan tradisionil, kebudajaan dan sedjarah jang telah mengikut mereka bersama

PASAL 2

2. Kedua Pihak Agung jang Berdjandji bersetudju untuk memelihara dan melandjutkan hubungan diplomatik dan konsuler diantara mereka sesuai dengan azas-azas serta kebiasaan internasional, lagi pula bersetudju bahwa wakil-wakil diplomatik dan konsuler dari Kedua Pihak akan memperoleh, atas dasar timbalbalik, segala hak-hak, hak-hak istimewa, kebebasan-kebebasan dan kekebalan-kekebalan, menurut kedudukan dan pangkat mereka sesuai dengan azas-azas jang umumnya diakui dalam hukum dan kebiasaan internasional.

PASAL 3

3. Kedua Pihak Agung jang Bedrjandi, mengakui bahwa, dalam batas-batas pertimbangan-pertimbangan keamanan, Ketertiban serta kesehatan umum dan pengawasan imigrasi dari negara masing-masing, warga-negara mereka sedapat-sedapatnja akan dikenakan pembatasan sedikit-dikitnja, apabila

(a) mengadakan perdjalanan ke dan didalam; dan

(b) bertempat tinggal

dinegara pihak lain menjetudjui untuk menjelidik tiap² pembatasan jang diadakan terhadap, dan kesukaran jang kini dialami oleh warga-negara mereka jang mengadakan perdjalanan dan bertempat tinggal demikian dengan tudjuan untuk mengadakan persetudjuan-persetudjuan guna

mengurangi kesukaran itu, merobah atau menghilangkan pembatasan-pembatasan itu atas dasar timbal-balek.

PASAL 4

4. Apabila terdjadi perselisihan mengenai soal-soal jang lang-sang dan semata-mata menjangkut kedua negara, kedua Pihak Agung jang Berdjandji menjetudjui akan berichtiar memetjahnja dalam semangat persaudaraan dan muhibbah jang sungguh-sungguh melalui saluran-saluran diplomatik biasa dan djikalau dengan tjara demikian tidak dapat diperoleh penjelasan dalam waktu jang lajak, maka mereka akan menempuh djalan dan tjara-tjara lain sesuai dengan Piagam Perserikatan Bangsa-Bangsa dan azas-azas jang dinjatakan pada konperensi Bandung tahun 1955.

PASAL 5

5. Guna melaksanakan kerdjasama jang lebih erat, kedua Pihak Agung jang Berdjandji menjetudjui menjelidiki persoalan-persoalan mengenai hubungan-hubungan konsuler, perdagangan, perhubungan, penjerahan pendjahat-pendjahat jang melarikan diri serta segala soal-soal lainnja jang mendjadi kepentingan bersama bagi kedua negara, dengan tudjuan, dimana dan bilamana mungkin, untuk mengadakan persetudjuan-persetudjuan atas dasar timbal-balek

PASAL 6

6. Kedua Pihak Agung jang Berdjandji, sadar akan kenjataan bahwa Bahasa Melayu dan Bahasa Indonesia berasal sama, akan berusaha dengan tjara kerjasama, bantu-membantu dan perundingan-perundingan, untuk mentjapai persamaan seluas-luasnja dalam pemakaian dan perkembangannja.

PASAL 7

7. Kedua Pihak Agung jang Berdjandji, didorong oleh keinginan untuk mentjapai kerdjasama jang seluas-luasnja dalam lapangan-lapangan kebudajaan, kesardjanaan, ilmiah dan pendidikan, menjetudjui dalam batas-batas pertimbangan keamanan dan ketertiban umum dimasing-masing negara untuk:

- (a) memadjukan tukar-menukar ahli-ahli pendidikan, ahli-ahli ilmiah guru-guru, para peladjar, rombongan penjelidikan, para seniman dan wakil-wakil organisasi-organisasi kemasjarakatan dan kebudajaan;

- (b) memajukan pertukaran kesimpulan-kesimpulan dan hasil-hasil dari penjelidikan ilmiah dan penjelidikan umum;
- (c) memajukan melalui saluran-saluran resmi pertukaran penerbitan-penerbitan yang bersifat pendidikan dan kebu-dajaan, film-film, surat-surat kabar, tindjauan- tindjauan dan siaran-siaran radio, guna menambah pengetahuan dan saling pengertian;
- (d) memajukan pertukaran benda-benda yang bernilai purbakala, sedjarah dan kebudajaan;
- (e) bantu-membantu memajukan latihan-latihan dalam lapangan pendidikan, ilmu pengetahuan teknik dan perindustrian;
- (f) menggiatkan dan memudahkan penjelenggaraan pertunjukan konser-konser, serta pameran-pameran kesenian, ilmiah dan kesusasteraan;
- (g) Saling menggiatkan para peladjarnya untuk belajar di-universitas-universitas serta lembaga-lembaga pendidikan dinegara Pihak lain;
- (h) menggiatkan serta memajukan usaha-usaha dalam lapangan olahraga diantara kedua negara; dan
- (i) melindungi milik-milik kebudajaan dan purbakala mereka masing-masing, selama hal itu tidak tertjantum dalam persetudjuan-persetudjuan umum yang bersifat inter-nasional.

PASAL 8

8. Perdjangjian ini akan berlaku mulai tanggal pertukaran Piagam Ratifikasi yang akan dilangsungkan selekas-lekasnja di Djakarta.

PASAL 9

9. Masing-masing Pihak Agung yang Berdjandji berhak mengachiri Perdjangjian ini dengan memberitahukannja kepada Pihak lain dan pembatalan demikian mulai berlaku enam bulan sesudah hari pemberitahuan itu.

PASAL 10

10. Perdjangjian ini dibuat dalam bahasa Melayu, Indonesia dan Inggris yang mempunjai nilai yang sama. Tiap perbedaan tafsiran dari ketiga naskah akan diselesaikan dengan perundingan.

Untuk menjaksikannya, para Wakil Berkuasa Penuh dari Pihak-Pihak Agung yang Berdjandji telah menanda-tangani Perdjandjian ini dan membubuhkan Meterai-Meterai Mereka.

Dibuat di Kuala Lumpur pada hari tanggal Tudjuhbelas bulan April tahun Seribu sembilanratus limapuluh sembilan.

Untuk Persekutuan Tanah
Melayu

DATO' ABDUL RAZAK BIN
DATO' HUSSEIN

Untuk Republik
Indonesia

IR. H. DJUANDA KARTA-
WIDJAJA

The English text of the Treaty is as follows :

"TREATY OF FRIENDSHIP"

BETWEEN

THE FEDERATION OF MALAYA

AND

THE REPUBLIC OF INDONESIA

Aware of the existing ties of history, race and culture, which from time immemorial have bound together the people of both countries.

prompted by the desire to restore the relations, which have interrupted by accidents of history and to bring about and strengthen close mutual co-operation on matters exclusively affecting both countries consistent with the spirit of the Charter of the United Nations and the principles as enunciated at the Asia-African Conference in Bandung in 1955.

THE FEDERATION OF MALAYA

AND

THE REPUBLIC OF INDONESIA

have decided to conclude a Treaty of Friendship and to this end have appointed as their plenipotentiaries :

THE HONOURABLE DATO' ABDUL RAZAK BIN DATO' HUSSEIN,
PRIME MINISTER, FEDERATION OF MALAYA

H.E. DR. H. DJUANDA KARTAWIDJAJA,
PRIME MINISTER, REPUBLIC OF INDONESIA.

Who, having examined each other's credentials and having found them good and in due form, have agreed as follows:

ARTICLE 1

1. The two High Contracting Parties shall respect the independence and sovereignty of each other and shall strive to maintain the traditional, cultural and historical ties that have bound them together.

ARTICLE 2

2. The two High Contracting Parties agree to maintain and continue between them diplomatic and consular relations in accordance with

international principles and usage and agree that the diplomatic and consular representatives of either Party shall enjoy, on a reciprocal basis, all the rights, privileges, exemptions and immunities accorded to officers of their status and rank in conformity with the generally accepted principles of international law and usage.

ARTICLE 3

3. The two High Contracting Parties, recognising that, subject to consideration of security, public order, public health and immigration control of their respective countries, their nationals should be subject to minimum of restrictions when

- (a) travelling between and within; and
- (b) residing

in the two countries, agree to examine any restrictions imposed on, and inconvenience now suffered by their nationals so travelling and residing with a view to the conclusion of agreements alleviating such inconvenience or modifying or removing such restrictions on a reciprocal basis.

ARTICLE 4

4. The two High Contracting Parties agree that in case any dispute on matters directly and exclusively affecting them should arise they shall endeavour to settle such dispute through usual diplomatic channels in a true spirit of friendship and goodwill. If a settlement cannot be found through such channels within a reasonable time, they shall endeavour to settle them by other ways and means in accordance with the United Nations Charter and the principles enunciated at the Asia-African Conference in Bandung in 1955.

ARTICLE 5

5. The two High Contracting Parties, in order to bring about closer cooperation, agree to examine questions relating to consular relations, trade, communications, the surrender of fugitive offenders and all other matters of common interest with a view, wherever and whenever possible, to the conclusion of agreements on a reciprocal basis.

ARTICLE 6

6. The two High Contracting Parties, conscious of the fact that the Malay and Indonesian languages have a common origin, shall strive

through cooperation, collaboration and consultation to achieve the greatest possible uniformity in their use and development.

ARTICLE 7

7. The two High Contracting Parties, desiring to achieve the maximum cooperation in the cultural, intellectual, scientific and educational fields, agree subject to considerations of security and public order in their respective countries:

- (a) to promote the exchange of educationists, scientists, teachers, students, study groups, artists and representatives of social and cultural organisations;
- (b) to promote the exchange of the findings and results of scientific and general research;
- (c) to promote the exchange through official channels of educational and cultural publications, films, newspapers, reviews and radio broadcasts in order to increase knowledge and mutual understanding;
- (d) to promote the exchange of objects of archaeological, historical and cultural interest;
- (e) to assist each other in the promotion of training in the educational, scientific, technical and industrial fields;
- (f) to encourage and facilitate the holding of concerts, and of art, scientific and literary exhibitions;
- (g) to encourage their students to study in the universities and educational institutions of each other;
- (h) to encourage and promote activities in the field of sports between their two countries; and
- (i) to protect the cultural and archaeological property of each other insofar as this is not covered by general agreements of an international character.

ARTICLE 8

8. This Treaty shall come into force on the date of exchange of the Instruments of Ratification which shall take place as soon as possible in Djakarta.

ARTICLE 9

9. Each High Contracting Party reserves the right to terminate this Treaty by means of a notification to the other High Contracting Party and such termination shall have effect at the expiration of six months from the date of such notification.

ARTICLE 10

10. This Treaty is drawn up in the Malay, Indonesian and English languages which have equal value. Any divergent interpretation of the three texts shall be settled by negotiation.

IN FAITH THEREOF the Plenipotentiaries of the High Contracting Parties have signed the Treaty and have hereto affixed Their Seals.

Done in Kuala Lumpur on the Seventeenth Day of April in the year One Thousand Nine Hundred and Fifty-nine.

For the Federation of
Malaya

DATO' ABDUL RAZAK BIN
DATO' HUSSEIN

(SEAL)

For the Republic of
Indonesia

DR. H. DJUANDA KARTI-
WIDJAJA

(SEAL)

This is to certify that the text reproduced herein is a true and complete copy of the treaty and it includes all reservations made by the parties thereto."

APPENDIX III

Prime Minister's Invitation to Indonesia Regarding
Formation of ASA

(Salinan)

28hb Oktober, 1959.

Paduka yang mulia Tuan Presiden,

Dengan segala hormat dan sukachita-nya saya melayangkan sa-puchok surat kepada Paduka Yang Mulia dengan harapan supaya dapat melaksanakan hasrat dan chita² buat mendirikan satu pertubohan bagi melancarkan perundingan dan merapatkan kerja-sama di-antara negeri² di-Tenggara Asia.

2. Mengikut pendapat saya negeri² yang menjadi anggota pertubohan ini ada-lah masok dengan suka rela-nya dengan tidak tersinggong sedikit pun kadaulatan dan kamerdekaan mereka itu. Sa-terus-nya, tiap² suatu negeri mempunyai kebebasan yang penoh buat menentukan dasar²nya, baik pun tentang hal ehwal dalam atau pun luar negeri. Demikian juga negeri² yang menjadi ahli pertubohan ini, tidak-lah pula akan terganggu segala perhubungan mereka yang berasaskan surat perjanjian atau apa jua kesanggupan dengan kumpolan² atau persatuan² yang lain. Dan lagi bebas-lah mereka mengundi mengikut suka hati mereka sendiri di-Pertubohan Banga² Bersatu.

3. Tujuan² pertubohan yang di-chita² ini ia-lah menggalakkan perhubungan rapat di-antara negeri² di-Tenggara Asia, dengan mengadakan perbinchangan bersama dan mengambil persetujuan yang bebas. Dengan chara ini, di-harap tiap² negeri akan dapat memahami dengan lebeh mendalam lagi hal negeri² yang lain. Juga pertubohan ini bertujuan hendak menyelideki chara² tolong menolong di-antara satu negeri dengan lain terutama di-lapangan iktisad, kemusharakatan, kebudayaan dan sains.

4. Saya perchaya banyak faedah² yang besar yang akan dapat kita nikmati hasil daripada tertuboh-nya pertubohan yang saperti ini.

5. Yang Mulia sedia ma'alom, oleh kerana bebcerapa sebab dalam sejarah kita maka perkembangan kebudayaan dan iktisad ke-banyakan negeri² di-Tenggara Asia dalam kurun ini telah dipengarohi oleh perhubungan yang mengikat-nya dengan negeri² di-luar kawasan ini. Dengan kerana ini, terbantut-lah segala perasaan hidup bersama

di-Tenggara Asia, yang sama mempunyai pusaka kebudayaan yang kaya. Di-sebabkan oleh kejadian² sejarah, maka kita telah selalu sangat mengharapkan pertolongan dan chontoh dari luar—dan jarang sekali kita meninjau ka-dalam buat berdiri dengan tenaga dan hasil kita sendiri.

6. Pada hal Yang Mulia sendiri tahu bahawa Tenggara Asia ini kaya dengan hasil mahsul-nya sendiri, bukan sahaja di-lapangan kebudayaan dan sejarah, bahkan juga dari segi kebolehan maanusia, hasil bumi, ayer dan galian. Saya perchaya dengan mempeiratkan lagi perhubungan di-antara kita maka kita akan dapat menggunakan kebolehan² dan hasil mahsul ini dengan lebeh tegas lagi buat faedah bersama, serta memperkayakan negeri kita sendiri dengan bekerjasama dalam berbagai chara.

7. Juga dalam perhubungan luar negeri, saya perchaya dengan terdiri-nya satu pertubohan di-antara negeri² di-Tenggara Asia maka dapat-lah kita mengemukakan pendapat kita kepada Dunia dengan lebeh tegas lagi, terutama dalam lapangan iktisad antara bangsa, kerana banyak kepentingan² kita yang sama. Walau pun kita barangkali tidak dapat menchapai persetujuan yang penoh dan sarupa dalam satu² perkara, sa-kurang²-nya menerusi pertubohan ini dapat-lah kita memahami dengan lebeh dalam lagi sebab²-nya kita tidak menchapai satu persetujuan itu.

8. Pada pendapat saya, pertubohan yang di-hajatkan ini akan di-tubuhkan menerusi satu Perundingan Tenggara Asia yang di-hadhiri oleh Perdana Menteri² serta Ketua² Pemerintah negeri yang mungkin menjadi ahli², atau pun di-hadhiri oleh Menteri² Hal Ehwal Luar Negeri sa-bagai wakil diri Perdana Menteri². Pertubohan ini akan memberi keutamaan kepada soal iktisad, sains, kebudayaan, pelajaran dan kemusharakatan; soal² siasah boleh juga di-binchangkan kalau di-kehendaki dengan menerima persetujuan bersama, tetapi ini tidak pula akan menyinggong satu² pendirian negeri yang menjadi ahli² pertubohan ini.

9. Satu Jabatan Setia-Usaha yang kecil untuk pertubohan ini akan di-dirikan buat menyelenggarakan Perundingan, melaksanakan chadangan², dan menguruskan kerja kajian yang telah di-buat oleh kumpulan² jawatan-kuasa² yang di-tubuhkan oleh Perundingan.

10. Di-dalam beberapa bulan yang lalu saya telah mengambil kesempatan membinchangkan perkara ini bila sahaja saya berjumpa

dengan pemimpin² yang bertanggung-jawab di-negeri² tetangga. Perbincangan² ini telah menggalakkan saya buat mengambil satu keputusan bahawa soal pertubuhan Negeri² di-Tenggara Asia ini menerima sokongan umum sa-kurang²-nya atas dasar-nya. Saya juga perchaya bahawa segala kesulitan² yang berkenaan dengan penegasan-nya akan dapat di-atasi kalau dapat kita uruskan satu meshuarat di-antara Ketua² kerajaan di-Tenggara Asia.

11. Saya chadangkan meshuarat ini di-adakan di-awal tahun hadapan, bulan February atau pun March mungkin sesuai. Tempat meshuarat-nya pula, pada rasa saya, elok-lah di-adakan di-satu tempat yang di-persetujui oleh ramai. Tetapi kalau Yang Mulia, dan ketua² Pemerintah serta Perdana Menteri² lain sudi, saya sedia dan bersukachita menjemput Ketua² Pemerintah dan Perdana Menteri² Kerajaan² yang bersangkutan, atau wakil² mereka, supaya datang ka-Kuala Lumpur menghadhiri meshuarat ini sabagai Tetamu Kerajaan Duli Yang Maha Mulia.

12. Oleh itu saya mengirim surat ini kepada Paduka Yang Mulia juga kepada President² Filipina serta Vietnam dan Perdana Menteri² Burma, Cambodia, Laos dan Thailand buat bertanya kalau bersetuju menyokong chadangan ini. Kalau Yang Mulia bersetuju, satu Meshuarat di-antara Ketua² Pemerintah dan Perdana Menteri² kerajaan² di-Tenggara Asia boleh-lah di-uruskan di-awal tahun hadapan. Di-situ nanti kita akan dapat membinchangkan soal mengadakan perundingan dan kerjasama yang lebeh rapat di-antara kerajaan² kita, dengan tujuan buat mendirikan satu pertubuhan saperti yang tersebut di-atas tadi.

13. Di-dalam surat ini saya chuma mengemukakan dasar²-nya sahaja dengan sa-chara ringkas. Sudah tentu banyak lagi perkara² yang lain yang mesti di-putuskan, tetapi kalau dasar² Persatuan ini di-terima, pada rasa saya soal² lain itu boleh-lah di-putuskan dengan persetujuan bersama. Kalau Yang Mulia terima chadangan saya ini maka saya dengan sukachita akan menghantar sa-orang wakil istimewa ka-Djakarta sakira di-kahendaki buat membinchangkan perkara ini dengan Yang Mulia sendiri atau penasihat² Yang Mulia dengan lebeh lanjut lagi.

14. Sekian-lah sahaja saya ma'alumkan dan saya berharap Paduka Yang Mulia sudi memberi perhatian kepada chadangan saya yang ikhlas ini bagi kepentingan bersama negara² kita. Saya berdoa' kepada Ilahi

agar Paduka Yang Mulia serta keluarga sekalian berada di-dalam kandungan sehat wal'afiat dan aman sentosa sa-lama²-nya. Wassalam.

Dengan ucapan salam bahagia,
Saya

TUNKU ABDUL RAHMAN PUTRA AL HAJ,
Perdana Menteri,
Persekutuan Tanah Melayu

PADUKA YANG MULIA,
TUAN PRESIDEN SUKARNO,
PANGlima TERTINGGI DAN PERDANA MENTERI,
REPUBLIK INDONESIA.

APPENDIX IV

**Indonesian Reply to Prime Minister Regarding Formation of ASA
(Salinan)**

KEDUTAAN BESAR REPUBLIK INDONESIA,
174 BATU ROAD, KUALA LUMPUR,
Talpon: 88941

Jang Mulia,

Surat Jang Mulia tertanggal 28 Oktober 1959 jang menjampaikan tjita-tjita dan maksud Jang Mulia untuk membentuk suatu badan kerdjasama antara negara-negara Asia-Tenggara telah saja terima dengan selamat.

2. Setelah mempeladjadi isi surat itu dengan saksama, saja ingin mengemukakan pandangan saja agar dapat Jang Mulia djadikan bahan pertimbangan. Memang sudah selajaknja, bahkan seharusnya, djika negara-negara tetangga jang bersahabat mengadakan kerdjasama jang seerat-eratnja diberbagai lapangan jang dimung-kinkan keadaan. Tetapi menurut hemat saja, suatu gabungan baru jang meliputi negara-negara di-Asia-Tenggara hanja akan menimbulkan prasangka dan mungkin sekali spekulasi jang bukan-bukan pada negara-negara lain, dan ini dapat merupakan rintangan dari keinginan kita untuk bekerdja-sama.

3. Oleh karena itu saja lebih tjondong agar tudjuan kerdjasama antara negara-negara Asia-Tenggara itu dilaksanakan melalui perdjandjian-perdjandjian dan perstudjuan-persetudjuan bilateral diberbagai lapangan jang telah ada ataupun jang dapat diadiakan.

4. Menurut pendapat saja akan lebih besar hasilnja djika kita memusatkan usaha kita untuk memberi isi jang tegas dan njata kepada perdjandjian perdjandjian dan perstudjuan-persetudjuan bilateral jang telah ada dan dimana perlu mengadakan perdjandjian-perdjandjian dan perstudjuan-persetudjuan bilateral baru.

5. Djika hendak mengadakan kerdja-sama dalam lingkungan jang luas maka saja lebih melihat pelaksanaannja dalam hubungan Asia-Afrika jang luas, sesuai dengan hasil-hasil Konperensi Asia-Afrika jang diadakan di Bandung pada tahun 1955. Lingkungan Asia-Afrika tadi sudah di terima oleh seluroh dunia sebagai kenjataan.

6. Sungguhpun demikian, saja tetap mengikuti usaha-usaha Jang Mulia dengan penuh minat. Semoga pandangan-pandangan saja diatas

dapat Jang Mulia gunakan sebagai bahan tambahan dalam melaksanakan
udjud Kerdja-sama antara negara-negara Asia-Tenggara.

7. Achirnja, Jang Mulia, sambutlah salam saja diiringi do'a semoga
Tuhan Jang Maha Esa tetap melindungi Jang Mulia serta seluruh
keluarga.

Wassalam,

SUKARNO,

*Presiden/Perdana Menteri,
Republik Indonesia*

JANG MULIA,
TUNKU ABDUL RAHMAN PUTRA AL-HAJ,
PERDANA MENTERI,
PERSEKUTUAN TANAH MELAYU,
Jang mengambil turuna,
(Zoebir)

APPENDIX V

Proposal for Extradiction Treaty

DJAKARTA,

28 Djanuari, 1960

Jang Mulia Dr Ismail,

Pertemuan kita beberapa waktu jang lampau ketika Konperensi Kolombo sungguh sangat berguna oleh karena dengan begitu kita dapat menanam dasar-dasar saling pengertian tentang masalah-masalah jang dihadapi oleh kedua negara kita. Dalam masa pertumbuhan dan masa peralihan usaha merubah susunan masyarakat kolonial menjadi dasar-dasar penghidupan nasional merupakan salah sesuatu kegiatan pokok dari Pemerintah dan Bangsa Malaya dan Indonesia. Kita semua sadar, bahwa proklamasi kemerdekaan dan penobatan Pemerintah nasional hanja merupakan langkah pertama sadja dari tjita-tjita suatu bangsa jang medeka dan berdaulat.

2. Dalam hai ini kita mengakui, bahwa kadang-kadang kita menempuh dialan jang berbeda untuk mentjapai tudjuan jang sama, djustru oleh karena sifat warisan politis, warisan ekonomis atau warisan militer dari pemerintah kolonial dimasing-masing negara kita djuga berbeda.

3. Antara Indonesia dan Malaya setjara konvensional-diplomatis sebetulnja tidak ada persoalan-persoalan jang menghalangi pertumbuhan persahabatan. Perdjangjian Persahabatan dan Kebudayaan jang baru-baru ini disetujui oleh kedua belah pihak merupakan landasan kuat untuk memperkembangkan hubungan antara kedua Bangsa.

4. Sebagai warisan dari zaman jang lampau, maka hubungan antara kita diliputi oleh berbagai kegiatan-kegiatan illegal jang berlangsung antara pantai Indonesia dan pantai Malaya. Kegiatan illegal ini disamping mengandung unsur-unsur politis, ekonomis, djuga mengandung unsur persendjataan. Kami yakin bahwa Jang Mulia dengan Pemerintah dan Bangsa Malaya *umumnja* meninjau *hubungan illegal* ini sebagai suatu sumber dari kerusuhan atau kesulitan jang dapat mengganggu stabilitet dari negara kita masing-masing. Atas dasar fikiran ini maka Pemerintah Indonesia sudah memajukan usul untuk mengadakan Perdjangjian Penjerahan (Extradition) antara kedua negara kita. Perdjangjian demikian akan mengurangi niat warganegara masing-masing *jang melanggar hukum nasional* untuk melarikan diri keseberang laut Selat Malaka dan mentjari perlindungan dinegara jang

lain. Memang djika keadaan sekarang ini kita biarkan bertumbuh dan membiarkan pelarian-pelarian dari satu negara menjari suaka (asylum) dinegara jang lain, maka ini hanja memperkuat kedudukan unsur-unsur jang kurang baik dimasyarakat kita masing-masing. Tjontoh diberbagai negara Amerika Latin merupakan bukti jang tjutup, bahwa keadaan serupa itu tidak menambah kemadjuan kearah stabiliteit nasional.

5. Inilah sebabnja Pemerintah Indonesia meminta perhatian istimewa dari Pemerintah Malaya mengenai soal pelarian 30 orang käum pemberontak ke Malaya baru-baru ini. Pemerintah Indonesia tidak hanja melihat dari sudut kegiatan 30 orang tadi jang mungkin pada waktu sekarang dengan mudah dapat kita atasi, akan tetapi lebih-lebih bahwa proses demikian, djika kita benarkan atau biarkan, merupakan precedent bagi masa jang akan datang. Oleh karena djika anasir-anasir buruk atau golongan pemberontak dapat melarikan diri dari Indonesia ke Malaya, maka tentu bukan mustahil, bahwa pada suatu waktu anasir-anasir buruk atau golongan pemberontak djuga dapat melarikan diri dari Malaya ke Indonesia. Dalam hal ini Pemerintah Indonesia ingin menjapai pengertian setjara mendalam dengan Pemerintah Malaya untuk kepentingan kita bersama. Dengan tegas dapat kami kemukakan, bahwa kita tidak semata-mata memperdjoangkan kepentingan Indonesia dalam hal ini, akan tetapi djuga kepentingan Malaya tersangkut, dan seperti djuga telah disimpulkan oleh Perdjangjian Persahabatan dan Kebudajaan, kepentingan kedua negara kita, Indonesia dan Malaya, sangat terdjalin dan mempengaruhi satu sama lain.

6. Kami mengharap dapat menerima fikiran Jang Mulia dalam hal ini, dan djika dianggap perlu kami sendiri bersedia pergi ke Malaya untuk membitjarkan soal ini. Sebaliknya, djika Jang Mulia dan Njonja mempunjai kesempatan, kami dengan sangat ingin *mengundang* Jang Mulia dan Njonja untuk mengundjungi Indonesia. Kesempatan ini tidak hanja dapat kita pergunakan untuk membitjarkan hubungan antara Malaya dan Indonesia, akan tetapi lebih-lebih djuga dapat dipergunakan oleh Jang Mulia dan Njonja beserta rombongan untuk menindjau keadaan di Indonesia, untuk beristirahat dan mengenal alam dan rakjat Indonesia.

Wassalam,

Menteri Luar Negeri,

Republik Indonesia,

DR SUBANDRIO

KEPADA
JANG MULIA DR ISMAIL BIN DATO ABDUL RAHMAN,
MENTERI LUAR NEGERI,
PERSEKUTUAN TANAH MELAYU,
DI KUALA LUMPUR.

APPENDIX VI

Reply to Indonesian Proposal for Extradition Treaty*28th April, 1960.*

Yang Amat Berhormat Dr Subandrio,

Berhubung dengan surat saya yang bertarikh 26 March, 1960, maka adalah di-ma'alomkan dengan sukachita-nya bahawa Kerajaan Persekutuan Tanah Melayu bersetuju dengan chadangan Yang Amat Berhormat untuk mengadakan satu Perjanjian Penyerahan (Extradition Agreement) di-antara Indonesia dengan Persekutuan Tanah Melayu.

2. Sebagai mana Yang Amat Berhormat sendiri ma'alom bahawa satu chadangan buat mengadakan Perjanjian Penyerahan di-antara dua buah negeri sudah tentu mempunyai beberapa soal dan kesulitan yang tidak boleh tidak akan terbit pada waktu perundingan-nya kelak. Ini boleh jadi menimbulkan perselisihan faham dan menggagal-kan rancangan itu.

3. Maka pada hemat saya untuk menjauhkan salah faham eloklah bagi kita antara dua pihak dengan perasaan muhibbah dan persaudaraan berterus terang menyatakan pendirian asasi masing² di-dalam hal ini. Kerajaan Persekutuan Tanah Melayu senantiasa sanggup bahawa sa-kira-nya ada apa jua usul² yang boleh memberi manafa'at bersama Insha Allah chadangan² itu akan di-sambut dengan baik-nya. Sambil itu Kerajaan Persekutuan adalah berpatoh tegoh kepada dasar yang sudah di-tentukan dari segi hukum² dan amalan internasional, umpama-nya di-dalam hal perjanjian penyerahan maka soal penyerahan tidak akan timbul terhadap orang² yang di-da'awa atau di-tuduh atatu menjadi benduan kerana perkara² yang ber-unsur politik (Political crimes). Satu daripada tiang² asasi di-dalam perkara penyerahan ini ialah ada-nya hak satu² negara yang berdaulat buat memperkenan-kan suaka politik kepada mereka yang berkehendakkan-nya.

4. Oleh yang demikian maka saya sangat-lah bersukachita sakira-nya dapat penjelasan berkenaan dengan ayat di-dalam surat Yang Amat Berhormat: "Kegiatan illegal ini di-samping mengandung unsur² politis, ekonomis, djuga mengandung unsur persenjataan".

5. Apabila di-terima penjelasan yang di-kehendaki itu kelak dan kita bersama berpuas hati bahawa amalan dan hukum inter-nasional yang biasa senantiasa di-pertahankan maka boleh-lah kaki tangan atau pegawai kerajaan pihak masing² berrapat dan berrunding untuk menchapai persetujuan yang lanjut. Pada satu peringkat yang di-tentukan di-dalam rundingan itu boleh-lah Yang Amat Berhormat dan saya bagi

pehak kerajaan kita masing² mengambil bahagian baik di-Kuala Lumpur atau pun di-Jakarta supaya satu perjanjian penyerahan dapat di-laksanakan dengan sempurna-nya.

6. Berkenaan dengan tempat di-mana pegawai² ini akan berrunding saya menerima sahaja apa² chadangan dari Yang Amat Berhormat.

7. Dengan hormat-nya saya mengucapkan berbanyak terima kasih di-atas kesudian Yang Amat Berhormat menjemput saya dan isteri saya ka-Indonesia. Oleh kerana keuzuran isteri saya pada masa ini maka dengan dukachita-nya tidak-lah dapat kami buat sementara ini mengunjungi Indonesia.

8. Saya akhir-kan warkah ini dengan salam hormat kepada Yang Amat Berhormat dan Njonja dan berdoa moga² keluarga semuanya di-dalam kandungan sehat wal-afiat ada-nya.

Yang benar,

DATO' DR ISMAIL BIN DATO' ABDUL RAHMAN,

Menteri Hal Ehwal Luar Negeri,

Persekutuan Tanah Melayu

YANG AMAT BERHORMAT DR SUBANDRIO,

MENTERI LUAR NEGERI,

REPUBLIC INDONESIA.

APPENDIX VII

Prime Minister's Offer to Mediate in West Irian Issue*20th September, 1960*

Yang Mulia Tuan Presiden,

Saya sasungguh-nya bersukachita mendengarkan kesudian Yang Mulia Tuan bertemu dengan Inche Senu di-hari Ahad 11 September yang lalu. Saya sangat menerima kaseh di-atas ucapan selamat daripada Tuan yang di-sampaikan oleh Inche Senu.

2. Sa-benar-nya bila saya menyuroh Inche Senu berjumpa dengan Yang Mulia Tuan tentang soal Irian Barat yang rumit ini, saya berharap mungkin dapat saya memberi sedikit sa-banyak sumbangan buat menchapai satu penyelesaian yang memuaskan. Padafikiran saya sangat-lah mustahak-nya di-hapuskan puncha perselisihan antara Indonesia dan Belanda ini. Maka sangat-lah mustahak-nya penyelesaian di-adakan untuk keamanan dunia, lebeh² lagi buat ketenteraman Tenggara Asia bagi kepentingan kita bersama.

3. Sa-masa saya di-Hague di-awal tahun ini, Kerajaan Belanda telah menyatakan yang mereka sedia menyerahkan penguasaan mereka atas Irian Barat kepada amanah (trusteeship) Bangsa² Bersatu. Mengikut kata⁷ dari pehak Belanda, Jabatan Setiausaha Agong Bangsa² Bersatu tidak berapa suka memikul tanggung jawab yang berat di-atas Irian Barat.

4. Saya sedar tentang kerumitan² yang berkaitan dengan soal amanah ini, terutama sa-kali tentang pendirian bahawa Irian Barat ia-lah sa-bahagian daripada negara Indonesia. Tetapi perlu saya nyatakan di-sini bahawa hajat saya ia-lah untuk menchapai mutlamat yang di-harapkan. Mengikut keadaan sekarang ini nampak-nya kita kena bergerak sa-langkah demi sa-langkah buat menchapai mutlamat itu.

5. Mengikut perchakapan² saya dengan pehak Belanda, mereka menerangkan bahawa mereka tidak sekali² bersetuju menyerahkan kuasa atau pun kedaulatan atau apa pun sebutan yang di-gunakan, atas Irian Barat terus kepada Indonesia; tetapi nampak-nya mereka tidak akan membantah penyerahan Irian Barat kepada Pertubohan Bangsa² Bersatu. Apabila Irian Barat telah di-serahkan kepada Bangsa² Bersatu, pehak Belanda tidak lagi ada kena mangena-nya dengan apa² langkah yang harus di-ambil oleh Bangsa² Bersatu berkenaan dengan daerah ini. Penyerahan Irian Barat kepada Majlis Amanah boleh di-tetapkan dengan syarat bahawa daerah ini akan di-serahkan kepada Indonesia sa-sudah

satu tempoh amanah yang di-persetujukan oleh ahli² Bangsa² Bersatu. Saya percaya bahawa Bangsa² Bersatu akan menerima syarat ini.

6. Dengan ringkas-nya saya nyatakan buah fikiran saya seperti berikut:

- (i) Kerajaan Belanda hendak-lah bersetuju menyerahkan Irian Barat kepada Bangsa² Bersatu sa-bagai sa-buah daerah amanah.
- (ii) Bangsa² Bersatu hendak-lah menerima daerah ini sb-bagai sa-buah daerah amanah dan di-tadbirkan mengikut chara sistem amanah.
- (iii) Amanah itu hendak-lah mengandongi satu syarat bahawa Irian Barat akhir-nya akan di-serah kepada Indonesia dengan saberapa segera-nya menurut tempoh yang di-tentukan oleh Majlis Amanah.
- (iv) Daerah ini akan di-tadbirkan oleh Pertubohan Bangsa² Bersatu atau pun beberapa negeri yang di-tugaskan untuk mentadbirkan-nya.

7. Inche Senu telah menerangkan kepada saya pandangan Tuan tentang hal ini seperti berikut:

- (i) Indonesia tidak akan membantah pelaksanaan penyerahan pentadbiran Irian Barat kepada Republik Indonesia menerusi Bangsa² Bersatu.
- (ii) Penyerahan akan di-laksanakan dengan tidak boleh diubah² lagi dan dengan tiada bersyarat.
- (iii) Sa-lepas sahaja penyerahan kuasa daripada Belanda kepada Bangsa² Bersatu, Bangsa² Bersatu akan mengambil segala langkah dengan segera untuk menyerahkan kuasa itu kepada Republik Indonesia.
- (iv) Untuk melaksanakan penyerahan kuasa atas Irian Barat daripada Bangsa² Bersatu kepada Republik Indonesia dengan lancar dan segera maka Bangsa² Bersatu akan melantek satu Surohanjaya Jasa Baik yang mengandongi beberapa ahli² Bangsa² Bersatu. Surohanjaya ini juga perlu untuk menghindarkan perhubungan chara terus antara Indonesia dan Belanda.
- (v) Penyerahan kuasa atas Irian Barat ini, daripada Bangsa² Bersatu kepada Republik Indonesia, mesti-lah di-sudahkan

dengan sa-berapa segera yang boleh, dalam tempoh satu tahun.

- (vi) Dalam penyerahan kuasa atas Irian Barat daripada Belanda kepada Bangsa² Bersatu, juga daripada Bangsa² Bersatu kepada Republik Indonesia, kepentingan² penduduk² Irian Barat buat perkembangan siasah dan iktisad mereka mesti-lah di-beri perhatian penoh.

8. Saya telah memikirkan perkara ini dengan teliti dari segala segi, dan saya berpendapat bahawa banyak kerumitan yang akan berbangkit sabagi hasil daripada chadangan bahawa penyerahan kuasa hendak-lah di-buat menerusi Bangsa² Bersatu yang dilaksanakan oleh sebuah Surohanjaya Jasa Baik. Pada taksir saya kalau kita kemukakan chadangan Tuan itu harus susah kita mendapat sokongan yang chukop di-Bangsa² Bersatu kelak kerana luar biasa pada Pertubohan Bangsa² Bersatu melantik satu perkakas selain daripada yang tersedia di-dalam sistem amanah untuk menguruskan hal yang sa-umpama ini. Dan lagi barangkali sukar bagi memujok Belanda menyerahkan daerah yang berkenaan itu kepada Pertubohan Bangsa² Bersatu melainkan melalui sistem amanah.

9. Dengan ikhlas-nya saya berharap agar sudi Yang Mulia Tuan menimbangkan semula chadangan saya ini. Sunggoh pun samentara ini saya tidak dapat memberi janji yang tepat tentang kejayaan chadangan itu tetapi, sa-kira-nya Tuan bersetuju Inshallah tidak-lah begitu sukar-nya bagi saya untok menchari peluang bagi menyelesaikan soal ini.

10. Saya akan bernagkat ka-America Sharikat pada 14hb October, 1960, dan besar-lah hati saya sekira-nya menerima jawapan tuan sabelum itu supaya dapat saya mengambil tindakan di-atas hal ini dengan negara² yang berkenaan.

11. Saya sudahi surat ini dengan ucapan salam hormat kepada Yang Mulia Tuan Presiden.

TUNKU ABDUL RAHMAN PUTRA

YANG TERUTAMA DR. AHMED SUKARNO,

ISTANA PRESIDEN,

DJAKARTA,

INDONESIA.

APPENDIX VIII

**Indonesia's Acceptance of Prime Minister's Offer to Mediate
in West Irian Issue**

PRESIDEN
REPUBLIK INDONESIA
DJAKARTA,
28 September, 1960

Jang Mulia

Tunku Perdana Menteri

Dengan penuh penghargaan serta rasa terima kasih, Paduka Jang Mulia Presiden Sukarno telah menerima surat Jang Mulia jang dibawa oleh Saudara Mohamad Razif. Paduka Jang Mulia Presiden Sukarno menjesal bahwa beliau tidak berkesempatan lagi untuk membalas sendiri surat Jang Mulia itu karena kesibukan beliau dalam mempersiapkan segala sesuatu bagi kundjungan beliau ke Perserikatan Bangsa Bangsa. Akan tetapi Paduka Jang Mulia Presiden Sukarno telah memberikan perhatian setjukupnja atas surat Jang Mulia dan setelah membitjarakan isinja dengan saja, beliau minta kepada saja selaku Pedjabat Presiden untuk membalas surat Jang Mulia itu atas mama beliau.

2. Sebagaimana Jang Mulia telah mengetahuinja, perdojangan mengembalikan Irian Barat kedalam wilayah kekuasaan Republik Indonesia, adalah perdojangan nasional jang selama sepuluh tahun lebih ini diselenggarakan terus menerus oleh Pemerintah dan Rakjat Indonesia dengan semangat jang tidak pernah kundjung padam.

3. Pemerintah dan rakjat Indonesia sangat menghargai sokongan jang selalu diberikan oleh Pemerintah dan rakjat Malaya dalam perdojangan ini dan kini chususnja ingin saja menjampaikan penghargaan saja atas perhatian Jang Mulia pribadi dalam turut mentjarikan dialan penjelessian soal Irian Barat ini.

4. Setalah mempeladjadi surat Jang Mulia dengan seksama, maka saja memang dapat melihat bahwa dengan sjarat-sjarat tertentu saran saran Jang Mulia dalam surat itu mengandung kemungkinan-kemungkinan jang dapat dipergunakan.

5. Perlu saja kemukakan terlebih dahulu, bahwa dalam soal Irian Barat ini, dasar-dasar fikiran Pemerintah Republik Indonesia adalah sebagai berikut:

1. Sesungguhja wilayah Irian Barat itu adalah bagian integral dari wilayah kedaulatan Republik Indonesia;

2. Penjerahan wilayah ini kepada Perserikatan Bangsa Bangsa sebagai daerah perwalian akan bertentangan dengan dasar fikiran tersebut diatas dan akan berarti bahwa Indonesia melepaskan hak kedaulatan atas sebagian wilayahnja, dan oleh karenanja sukar sekali untuk diterima oleh rakyat Indonesia;
 3. Sepandjang pengetahuan Pemerintah Republik Indonesia, daerah perwalian jang masih ada pada waktu ini adalah merupakan warisan dari keadaan sebelum perang dunia kedua, dan sedjak itu tidak ada lagi pembentukan daerah perwalian baru;
 4. Bistim daerah perwalian ini pada masa sekarang merupakan sesuatu jang masih mengandung unsur-unsur kolonialisme jang pada waktu sekarang tidak sadja ditentang, bahkan diperdjoangkan penghapusannja oleh tiga perempat dari seluruh umat manusia didunia ini.
 5. Dengan kenjataan-kenjataan tersebut diatas djelas pula kiranja, bahwa mendjadikan Irian Barat ini sebagai daerah perwalian baru dizaman sekarang akan merupakan suatu anachronism dan tidak sesuai lagi dengan derasnja perdjoangan bangsa-bangsa diseluruh benua Asia-Afrika untuk mentjapai kemerdekaan nasionalnja.
6. Dalam rangka fikiran tersebut diatas Pemerintah Republik Indonesia sebetulnja mau mentjari suatu penjelesian masalah Irian Barat tanpa melewati sistim perwalian.
7. Saja memang sependapat dengan Jang Mulia bahwa jang penting adalah tertjapainja tujuan pokok dari penjelesaian soal Irian Barat ini, jaitu supaja dalam waktu jang sesingkat-singkatnja Irian Barat itu dapat dikembalikan kedalam wilayah kekuasaan Republik Indonesia.
8. Berhubung dengan itu dan atas dasar-dasar fikiran dan pendirian jang telah saja kemukakan diatas, maka:
1. Pertama-tama harus diusahakan diperolehnja kepastian tentang adanja kesediaan jang njata dari Pemerintah Belanda untuk menjerahkan Irian Barat kepada Perserikatan Bangsa Bangsa;
 2. Pada saat Perserikatan Bangsa Bangsa menerima Irian Barat itu dari Pemerintah Belanda, harus sudah ditetapkan pula djaminan-djaminan jang njata, bahwa penerimaan itu bertujuan untuk menjerahkan Irian Barat langsung kepada

Republik Indonesia tanpa sjarat dan dengan tidak dapat diganggu-gugat lagi;

3. Perserikatan Bangsa Bangsa kemudian segera membentuk suatu komisi khusus jang misalnja dapat dinamakan "United Nations Commission for Irian Barat" (UNCIB) jang bertugas mempersiapkan penjerahan Irian Barat kepada Republik Indonesia jang telah terdjamin itu dalam waktu jang sesingkat-singkatnja dan tidak melebihi waktu satu tahun.

9. Andaikata pada Perserikatan Bangsa Bangsa, berhubung dengan ketentuan-ketentuan jang berlaku sekarang dalam organisasi itu sendiri tidak ada prosedur lain untuk mentjapai tudjuan tersebut diatas, dari pada melewati suatu Perwalian, maka perlu diselidiki apakah tidak dapat diperdjoangkan untuk menjebut masa peralihan satu tahun itu, sebagai masa perwalian ("trust-period") jang bertudjuan menjelenggarakan penjerahan kekuasaan *de facto* atas Irian Barat dari Perserikatan Bangsa Bangsa kepada Republik Indonesia setjara seksama. Dengan demikian maka Irian Barat tidak mendjadi daerah perwalian ("trust-territory"), tetapi tetap sebagai wilayah kedaulatan Republik Indonesia, dimana kepada UNCIB sebagai "Trustee" dari Perserikatan Bangsa Bangsa dipertjakaan suatu tugas untuk dalam tempo selama-lamanja satu tahun mempersiapkan perpindahan kekuasaan setjara tertib (*orderly transfer of authority*) kepada Republik Indonesia.

10. Dijikalau modus teresbut diatas tidak tertjapai, maka Pemerintah Republik Indonesia tidak berkeberatan menempuh djalan lewat trusteeship dengan ketentuan:

1. Trusteeship tersebut berlangsung selama-lamanja satu tahun;
2. Trusteeship tersebut bertudjuan satu-setunja: penjerahan kekuasaan atas Irian Barat kepada Republik Indonesia tanpa sjarat.

11. Sebagai alasan satu-satunja bagi Perserikatan Bangsa Bangsa mengambil putusan ini ialah apa jang tertera dalam artikel 76, sub *a*, dari Piagam Perserikatan Bangsa Bangsa, jang berbunji "to further international peace and security".

12. Menurut pendapat saja, maka jang saja kemukakan kepada Jang Mulia ini, mendekati maksud Jang Mulia untuk mentjari sesuatu djalan lewat Perserikatan Bangsa Bangsa menudju tertjapainia maksud mengembalikan Irian Barat kewilajah kekuasaan Republik Indonesia,

djalan mana masih dapat dipertanggung-djawabkan oleh Pemerintah Republik Indonesia kepada 90 djuta rakjat Indonesia dari Sabang sampai Merauke.

13. Achirulkalam sekali lagi saja manjatakan penghargaan saja kepada hasrat Jang Mulia untuk membantu manjelesaikan soal Irian Barat tersebut. Mudah-mudahan jang saja kemukakan diatas dapat dipertimbangkan oleh Jang Mulia, untuk didjadikan dasar bagi segala daja-upaja sehingga tertrjapai maksud kita bersama.

14. Saja ingin menutup surat ini dengan salam dan hormat saja jang tulus ichlas kepada Jang Mulia Perdana Menteri.

Pd. Presiden,

Republik Indonesia,

TUN IR HADJI DJUANDA KARTAWIDJAJA

JANG MULIA TUNKU ABDUL RAHMAN PUTRA,
PERDANA MENTERI PERSEKUTUAN TANAH MELAJU,
DI KUALA LUMPUR

APPENDIX IX

**Prime Minister's Report on His Efforts at Mediating
in West Irian Dispute**

3hb December, 1960.

Yang Mulia Tuan Presiden,

Dengan perasaan yang penuh penghormatan saya menyampaikan kepada Yang Mulia Tuan suatu laporan mengenai usaha usaha yang telah saya jalankan bagi menchapai suatu penyelesaian dalam soal Irian Barat yang rumit dan telah lama belum dapat di-selesaikan itu. Yang Mulia Tuan tentu maseh ingat lagi bahawa Tun Djuanda telah menulis surat kepada saya pada 28hb September, 1960, atas kehendak tuan, yang menyebut satu persatu-nya dasar fikiran Kerajaan Negeri Indonesia atas soal ini dan surat ini juga menyatakan bahawa Indonesia tidak ada galangan sa-kira-nya penyelesaian itu di-buat dengan pertolongan Bangsa Bangsa Bersatu menurut syarat-syarat yang tertentu.

2. Saya sentiasa ma'alum akan sebab sebab yang menimbulkan bantahan kepada chara pemindahan kuasa melalui amanah (Trusteeship) Bangsa Bangsa Bersatu. Sunggoh pun bagitu saya berani meneruskan ikhtiar yang saperti ini apakala saya telah di-ma'alumkan oleh Tun Djuanda bahawa Indonesia tidak akan menolak amanah Bangsa Bangsa Bersatu bagi Irian Barat itu, sa-benar-nya tuan telah bersetuju bahawa "satu jalan maseh dapat di-pertanggung jawabkan oleh Pemerintah Republik Indonesia kepada 90 juta ra'ayat Indonesia dari Sabang sampai Merauke" menurut syarat syarat yang berikut:

- (a) Trusteeship tersebut berlangsung sa-lama²-nya satu tahun;
- (b) Trusteeship tersebut bertujuan satu satu-nya: penyerahan kekuasaan atas Irian Barat kepada Republik Indonesia tanpa syarat.

3. Dengan mempunyai pengertian sa-bagaimana di-atas ini-lah saya telah berjumpa beberapa orang penganjor penganjor dunia yang telah mendengar chadangan itu dengan perasaan yang simpati tetapi tidak pula mereka memberi sebarang pendapat di-atas chadangan chadangan yang di-atas itu. Sa-benar-nya salah sa-orang daripada mereka telah memberi galakan kepada saya dengan berkata "Jika tuan sendiri meninjau fikiran Perdana Menteri atau Menteri Luar Negeri Belanda atas perkara itu tuan mungkin mendapat peluang untuk mempengaruhi jalan jalan atau chara penyelesaian itu dapat di-buat." Dalam masa perundingan perundingan

itu telah timbul satu fikiran bahawa sa-kira-nya Bangsa Bangsa Bersatu bersetuju dengan Trusteeship maka Australia atau pun Belanda di-jadikan salah satu pehak yang berkuasa bagi mentadbirkan kawasan itu. Saya telah menyatakan fikiran saya bahawa negara-negara Afro-Asia tidak akan bersetuju dengan chadangan yang saperti itu.

4. Sa-lepas daripada perjumpaan saya dengan Mr Hammarskjoeld di-New York pada 3hb November, 1960 dan hasil daripada perundingan saya dengan beliau, beliau telah bermurah hati memberi nasihat-nya kepada saya yang merupakan suatu penerangan tentang peratoran-peratoran berkaitan dengan Trusteeship itu. Setiausaha Agong itu telah menyatakan bahawa "Menurut Article 19 maka syarat-syarat perjanjian trusteeship itu hendak-lah di-luluskan oleh pehak yang berkuasa yang mentadbirkan negeri itu dan negeri-negeri yang ada perkaitan yang rapat dengan-nya. Oleh sebab itu sa-barang perjanjian trusteeship yang mungkin di-hadapkan di-dalam Perhimpunan Agong berkait dengan Irian Barat kena-lah di-persetujukan oleh Kerajaan Belanda dan mungkin juga Kerajaan Indonesia ia-itu sa-buah negeri yang harus di-sifatkan sa-bagai sa-buah daripada Kerajaan Kerajaan yang berkaitan rapat dengan-nya."

5. Setiausaha Agong itu menyatakan bahawa pada pendapat-nya Perjanjian Trusteeship itu akan berkehendakkan supaya di-tanya penduduk-penduduk negeri itu di-akhir suatu tempoh yang di-tentukan tentang sama ada mereka mahu menchapai kemerdekaan dengan sendiri sahaja atau pun bersekutu dengan Kerajaan negeri lain. Menurut Setiausaha Agong itu, sa-barang syarat yang di-masokkan di-dalam Perjanjian Trusteeship yang menentukan bahawa wilayah itu mesti di-serahkan kepada Indonesia yang berma'ana menjadikan trusteeship itu suatu perjalanan sementara bagi pehak Kerajaan itu akan berlawanan dengan kandungan dan semangat Piagam Bangsa Bangsa Bersatu.

6. Sunggoh pun bagitu Setiausaha Agong itu telah mengatakan bahawa bergantung-lah sa-mata-mata kepada Kerajaan Belanda untuk menyatakan kehendak-nya dalam perkara ini tetapi beliau juga telah melahirkan waham-nya sama ada Belanda akan bersetuju dengan sa-barang Perjanjian Trusteeship yang tidak memasokkan Kerajaan-nya sa-bagai salah satu daripada ditentang dengan sa-kuat kuat-nya oleh Indonesia. Sunggoh pun bagitu mungkin dapat di-pujok Belanda supaya melepaskan tuntutan ini jika sa-kira-nya tuntutan yang saperti itu boleh menghalangkan kemajuan dalam ikhtiar menchapai penyelesaian kepada perselisihan itu.

7. Saya sukachita memperhatikan penerangan Mr Hammarskjöld atas Article yang berkenaan dalam Piagam Bangsa Bangsa Bersatu itu bahawa beliau tidak menyebutkan Kerajaan Belanda sa-bagai sa-buah Kerejaan yang berdaulat di-atas kawasan Irian Barat, tetapi sa-balek-nya beliau menyebutkan Kerajaan Belanda sa-bagai salah sa-buah Kerajaan Kerajaan yang berkaitan rapat dengan wilayah itu. Ini tentu-lah membuka satu harapan untok berlaku-nya satu pertukaran pehak yang berkuasa atas wilayah itu.

8. Saya telah pergi ka-negeri Belanda pada 25hb November, 1960. Di-sana saya telah menerangkan pandangan-pandangan saya dalam perkara ini kepada Belanda dan pada akhir perundingan itu satu kenyataan bersama telah di-keluarkan yang menyebutkan di-dalam-nya "Perdana Menteri Persekutuan Tanah Melayu telah mengambil pandangan dengan puas hati bahawa Kerajaan Belanda sanggup meletakkan policy-policy-nya di-Netherlands New Guinea kepada penelitian dan hukuman Bangsa Bangsa Bersatu."

9. Dalam satu Persidangan Akhbar di-Hague saya telah menerangkan fahaman saya atas kenyataan bersama di-atas, ia-itu Belanda sekarang ini sanggup menyerahkan Irian Barat untok disiaست oleh Bangsa Bangsa Bersatu dan hukuman-nya kelak akan di-hormati oleh Kerajaan Belanda. Oleh kerana Persidangan Agong mesti bergantung kepada satu laporan untok membuat "hukuman-nya" di-atas kedudukan soal itu maka tidak ada jalan lain untok-nya melainkan dengan menghantar suatu Surohanjaya ka-Irian Barat bagi membuat "penelitian" itu. Maka terpaksa-lah saya mendapat fikiran Indonesia tentang burok baik-nya chandangan itu sa-belum dapat di-beri persetujuan. Saya telah berkata ia-itu sa-kira-nya chara yang saperti ini di-terima oleh Indonesia maka harus-lah dapat di-minta India dan Ceylon menjadi anggota Surohanjaya ini dan jika mustahak Malaya.

10. Dalam perjalanan kami dari Hague ka-Lapangan Terbang Schipol, Menteri Luar Belanda, Mr Luns, telah menerangkan kepada saya bahawa fahaman saya itu tidak-lah begitu tepat. Tujuan Kerajaan Belanda ia-lah menyerahkan policy-policy-nya di-Irian Barat pada "penelitian dan hukuman Bangsa Bangsa Bersatu." Ini tentu-lah sakali berbeza daripada fahaman fahaman saya atas kenyataan itu. Saya telah fikirkan bahawa policy policy itu berma'ana policy policy Irian Barat keselurohan-nya dan bukan-lah sa-takat yang mengenai dengan perkara perkara pentadbiran sahaja.

11. Oleh yang demikian supaya saya tidak di-tuduh hendak mengelirukan orang ramai saya telah memberi tahu kepada Pemberita Akhbar di-Schiphol apa yang di-maksudkan oleh Belanda dengan kenyataan yang tersebut. Maka saya tentu-lah merasa kesal dan tentu-lah saya tidak bersetuju dengan kenyataan ini sa-kira-nya maksud Kerajaan Belanda itu di-terangkan dengan jelas kepada saya.

12. Dalam masa perundingan perundingan saya dengan Kerajaan Belanda saya dapat mengagakkan bahawa mereka sekarang ini bersetuju hendak menyambong balek perundingan-perundingan dengan Kerajaan Indonesia atas soal Irian Barat yang telah terputus itu. Sekarang saya merasa yakin bahawa tidak-lah berguna lagi di-adakan perundingan perundingan yang saperti itu melainkan pehak-pehak yang berkenaan sanggup membuat pengorbanan supaya dapat terchapai suatu pengertian di-atas soal ini. Perkara ini telah lama benar berpanjangan dengan tidak ada sebarang tanda untok beroleh penyelesaian kerana perasaan benchi dan bermusohan telah sampai kepada tingkat yang boleh meletus kerana kedua-dua pehak tidak lagi ada perasaan bertolak ansur.

13. Mungkin dapat saya menjalankan usaha-usaha yang lebeh lanjut lagi untok menchapai penyelesaian itu dengan pertolongan daripada sa-tengah sa-tengah negeri yang telah mula sedar dan insaf akan soal Irian Barat.

14. Saya mesti mengaku bahawa saya telah terkejut oleh bantahan yang di-buat dengan chara berterang-terang oleh Dr Subandrio dengan tidak kena pada masa-nya ia-itu sa-belum daripada saya dapat peluang untok melaporkan kepada tuan. Perbuatan ini telah menyebabkan timbul-nya pandangan pandangan orang ramai yang burok terhadap diri saya terutama sa-kali di-Indonesia dan dengan itu mustahil-lah dapat saya meneruskan usaha saya dengan lebeh lanjut dalam perkara ini pada masa ini.

15. Saya suka menegaskan di-sini bahawa saya benar-benar faham sikap Indonesia atas Irian Barat. Tetapi saya berfikir bahawa sikap yang saperti itu yang telah di-pegang oleh Indonesia sa-lama beberapa tahun yang lepas telah tidak menghasilkan sebarang faedah dan suatu langkah yang baharu patut di-buat untok membuka jalan perundingan.

16. Dengan langkah yang baharu ini dan dengan ada sedikit pengorbanan dari kedua-dua belah pehak, maka mungkin-lah dapat kita meletakkan Irian Barat di-bawah Trusteeship Bangsa Bangsa Bersatu dengan tujuan yang tuan telah sebutkan di-dalam surat tuan.

17. Tentu-lah saya merasa kesal dan bimbang untuk masa hadapan, dan merasa dukachita bahawa sekarang ini tidak-lah ada banyak peluang yang dapat saya buat untuk memberi pertolongan.

18. Sa-bagai penutup-nya saya suka memberi akuan kepada Yang Mulia Tuan bahawa saya tidak mempunyai sabarang tujuan yang berselindung sa-lain daripada menawarkan diri saya dengan suchi hati sa-bagai sa-orang Islam dan kerana Allah bagi kebaikan semua.

19. Izinkan-lah saya menggunakan peluang ini untuk menyampaikan ucapan salam hormat yang sa-tinggi-tinggi-nya kepada Yang Mulia Tuan Presiden.

TUNKU ABDUL RAHMAN PUTRA

YANG TERUTAMA DR. AHMED SUKARNO,
PRESIDEN REPUBLIK INDONESIA,
ISTANA PRESIDEN,
DJAKARTA,
INDONESIA.

APPENDIX X

President Sukarno's Reply to Prime Minister's Report

DJAKARTA,

14hb Desember, 1960

Jang Mulia Tunku Abdul Rahman Putra,

Saja mengutjapkan banjak terima kasih atas surat Jang Mulia tertanggal Desember, 1960, dan saja merasa sangat gembira, bahwa Jang Mulia telah selamat tiba kembali di Kuala Lumpur dalam keadaan sehat wal'afiat dari perdjalananan untuk membantu penjelesaian soal Irian Barat.

2. Sekali lagi saja ingin menegaskan, bahwa kami sangat menghargai usaha-usaha Jang Mulia dalam membantu pengembalian Irian Barat kedalam wilajah kekusaan Republik Indonesia.

3. Dalam pertemuan permulaan dengan Duta Besar Enche' Senu Abdul Rahman mengenai hal Irian Barat perasaan ini telah saja kemukakan, meskipun djuga saja tegaskan kepada beliau, bahwa saja sangat ragu-ragu terhadap sikap Belanda untuk dapat menjelesaikan soal Irian Barat, jang pada achirnja dalam waktu singkat harus kembali kedalam wilajah kekuasaan Republik Indonesia. Kami jang mengetahui sifat pitjik dari Belanda, harus mengambil kesimpulan, bahwa selama Tuan Luns mendjabat Menteri Luar Negeri, sukar dapat ditjapai persetudjuan dengan Belanda mengenai Irian Barat. Meskipun demikian kami mendoakan lahir dan bathin agar usaha Jang Mulia dapat berhasil.

Dalam hal ini, Pemerintah Republik Indonesia, selama perdjalananan Jang Mulia keluar negeri, tidak mengeluarkan keterangan apapun sampai Jang Mulia tiba di Nederland, sambil menunggu keterangan Jang Mulia pada kami mengenai hasil dari usaha-usaha Jang Mulia itu.

4. Tentu Jang Mulia dapat maklum, bahwa tiap-tiap keterangan jang Jang Mulia berikan diluar negeri, diikuti oleh chalajak ramai di Indonesia dan tiap perkataan ditindjau setjara mendalam, chususnja dinilai, apakah Indonesia tidak bersikap kompomistis terhadap Belanda. Jang Mulia mengetahui, bahwa rakjat Indonesia setjara keseluruhannja mudah tersinggung perssaannja dalam masaalah Irian Barat. Apalagi djika keterangan tadi hanja merupakan sebahagian dari kebenaran-kebenaran jang dapat menimbulkan kesalah fahaman.

5. Meskipun Pemerintah Indonesia tidak menduga bahwa akan dikeluarkannja Joint-Communique antara Jang Mulia dengan Pemerintah Nederland, kami pada waktu itu tidak mengeluarkan sesuatu keterangan apapun, walaupun Joint-Communique itu sudah

menimbulkan keragu-raguan dikalangan masyarakat Indonesia. Selanjutnja dikeluarkan lagi keterangan tambahan atas Joint-Communique sebagai berikut:

1. Keterangan Jang Mulia di Schiphol, bahwa menurut anggapan Pemerintah Nderland "scrutiny and judgement United Nations" tidak mengandung penilaian mengenai kedaulatan Nderland atas Irian Barat.
 2. Menteri Luns mengeluarkan keterangan, bahwa misi Persatuan Bangsa-Bangsa ke Irian Barat tidak bertugas untuk menjelidiki kedaulatan Nderland atas Irian Barat.
 3. Keterangan Jang Mulia di Cairo, bahwa Jang Mulia menganggap misi Jang Mulia gagal, karena sikap Belanda.
6. Jang Mulia dapat mengerti, bahwa Joint-Communique dengan keterangan-keterangan tambahan tersebut akan menimbulkan reaksi jang maha hebat di Indonesia, ditunjukkan pada Pemerintah Republik Indonesia dan pada Jang Mulia, djika tidak ada bantahan tegas dari Jang Mulia sendiri atau dari fihak kami. Maka dari itu, Menteri Luar Negeri Subandrio menganggap perlu, demi persahabatan antara bangsa Indonesia dengan bangsa Melaju, untuk mengeluarkan keterangan jang membantah keterangan Tuan Luns atas sikap Belanda jang menentang Indonesia.
7. Seperti Jang Mulia mengetahui, baik dalam pendjelasan saja, maupun dari surat Pedjabat Presiden Saudara Djuanda, rakjat Indonesia menganggap daerah Irian Barat, adalah wilayah Republik Indonesia dan sama sekali tidak menerima, bahwa Belanda mempunyai kedaulatan atas daerah tersebut. Atas dasar pertimbangan ini, maka rakjat Indonesia menganggap bahwa keterangan tambahan atas Joint-Communique, seolah olah Pemerintah Indonesia dipaksakan untuk mengakui kedaulatan Belanda atas Irian Barat.
8. Dari sikap Belanda ini, sudah njata dengan djelas, bahwa tidak dapat diharapkan adanja kemauan baik dari fihak Belanda untuk menjelesaikan soal Irian Barat.
9. Djika ada bantahan dari Jang Mulia sendiri terhadap keterangan-keterangan Tuan Luns, maka itu akan berarti, bahwa Joint-Communique tidak mengandung kekuatan apapun lagi, sedangkan djika seperti sekarang Jang Mulia tidak memberikan bantahan setjara resmi, maka rakjat Indonesia diberi kesan seolah-olah kita membenarkan

interpretasi Belanda itu. Untuk menjaga interpretasi ini, maka Pemerintah melalui Menteri Luar Negeri Subandrio merasa perlu untuk memberi keterangan setjara tjepat dan tegas. Pula, ini untuk menjaga agar kita tidak disalahkan oleh dunia asing, djika kelak kita tidak dapat menerima isi Joint-Communique serta misi Persatuan Bangsa-Bangsa ke Irian Barat sesuai dengan interpretasi Belanda.

10. Atas keterangan tersebut diatas kami mengharap Jang Mulia dapat menerima, bahwa reaksi kami sama sekali tidak ditujukan kepada Jang Mulia pribadi atau kepada Pemerintah Persekutuan Tanah Melaju; sebaliknya keterangan kami dan reaksi rakjat Indonesia ditujukan pada Pemerintah Nederland, selain untuk menjaga supaya perasaan persahabatan antara rakjat Indonesia dan rakjat Persekutuan Tanah Melaju tidak terganggu.

11. Saja kira, meskipun usaha Jang Mulia belum mendapat hasil seperti jang diharapkan, oleh karena sikap sempit dari Belanda, namun kami pertjaja bahwa usaha Jang Mulia tentu sudah menanam kesan diseluruh dunia tentang kehangatan persoalan Irian Barat, jang segera meminta panjelesaian.

12. Untuk ini kami sekali lagi atas nama Pemerintah dan rakjat Indonesia mengutjapkan diperbanjak terima kasih atas segala usaha dari Jang Mulia.

SUKARNO

Presiden Republik Indonesia

KAPADA

JANG MULIA TUNKU ABDUL RAHMAN PUTRA,
PERDANA MENTERI PERSEKUTUAN TANAH MELAJU,
DI KUALA LUMPUR

APPENDIX XI

Resolution of Partai Komunis Indonesia—December, 1961

During discussions between their representatives in London, the Malayan Government and the British Government have reached agreement on the establishment of a Federation of Malaysia which will be composed of Malaya, Singapore, Sarawak, Brunei and North Borneo.

2. It is stipulated that, when the Federation will have been set up, the Malaysian Government will grant the United Kingdom the right to continue to use its war bases in Singapore to "assist in the defence" of Malaysia, for the "defence interests of the British Commonwealth" and for the "preservation of peace" in South East Asia.

3. The establishment of the Malaysian Federation will not obstruct Britain in the pursuance of its "international responsibilities", its "responsibilities" towards the British Commonwealth. Britain's so-called "international responsibilities" in South East Asia are basically the responsibilities it bears as a member of SEATO. Should British troops be required for a SEATO operation, these troops could be sent from Singapore. This means that the Federation of Malaysia will be smuggled into SEATO.

4. From their own experiences, the Indonesian people know only too well the meaning of the words "preservation of peace in South East Asia", the meaning of the words "international responsibilities", the word "responsibilities" towards the Commonwealth and other such words used by the imperialists. Colonial practices, acts of intervention and aggression by the imperialists in South Vietnam, Laos, the Congo, as well as the plans for the landing of U.S. troops in Pakan Baru (Sumatra) which were foiled by Indonesia, and the occupation of West Irian, etc., speak clearly of this.

5. The British colonialists have a great interest in the existence of such a Federation because their position in Singapore is becoming weaker and weaker with the growth of the democratic movement and the influence of patriotic political parties, whereas in Sarawak, Brunei and North Borneo, people's organisations are raising the demand for independence.

6. The British colonialists are no longer able to continue with colonialism in the old form, that is, with the open restoration of their colonial regime.

7. By unifying their colonies in Kalimantan (Borneo) with Malaya, the military agreement in force between Malaya and Britain will safeguard Britain's position in these colonies, especially now that Malaya and Britain have agreed that this military agreement must be extended to include Sarawak, Brunei and North Borneo.

8. It is evident that the Federation of Malaysia which is to be set up is but a form of new-colonialism. By establishing this Federation, the British colonialists intend to utilise native hands, particularly those of the Prime Minister of this Federation of Malaysia, to suppress the democratic and patriotic movements of the peoples in these five countries which aim at the attainment of genuine national independence and freedom from imperialism. The main point is that the British colonialists no longer dare to beat the people's movement with their own hands and they therefore borrow native hands for this. This is why the efforts towards the formation of this Federation—an unacceptable colonial intrigue—meets with the resistance of all democratic and progressive forces in Malaya, Singapore, Sarawak, Brunei and North Borneo.

9. The Federation of Malaysia will strengthen the position of the imperialists in South East Asia in implementing their SEATO activities which are also aimed against Indonesia, a country that does not like SEATO and that wages a resolute struggle against imperialism and colonialism.

10. The Third Plenum of the Central Committee of the Communist Party of Indonesia which was held in Djakarta during the last days of December 1961 calls upon the Indonesian people and Government to heighten national vigilance against the imperialists, especially in face of the establishment of the Federation of Malaysia, the formation of a new concentration of colonial forces on the very frontiers of our country.

11. The Indonesian people will certainly support the righteous patriotic and just resistance of the people of Malaya, Singapore, Sarawak, Brunei and North Borneo against the efforts for the establishment of this Federation of Malaysia.

APPENDIX XII

Joint Statement Issued After Tokyo Meeting

The President of the Republic of Indonesia, Dr. Sukarno, and the Prime Minister of the Federation of Malaya, Tunku Abdul Rahman Putra, having agreed that there was need for them to meet and clarify matters regarding problems arising from the proposal for the formation of Malaysia, held discussions on 31 May and 1 June, 1963 in Tokyo. Their amicable and frank exchange of views over the two days has achieved this purpose.

2. The President and the Prime Minister reaffirmed their faith in the Treaty of Friendship between Indonesia and Malaya concluded in 1959 and agreed that any outstanding differences on matters directly and exclusively affecting them the two countries should seek to settle them in a spirit of neighbourliness and goodwill through every available channel as envisaged in the Treaty of Friendship.

3. The two Heads of Governments recognising the desirability of restoring and maintaining friendly relation and historical ties which have bound the two countries, decided that their respective Governments would take every possible measure to refrain from making acrimonious attacks on and disparaging references to each other.

4. The President and the Prime Minister have also cleared the way for a meeting of Ministers to be held on 7 June in Manila amongst Indonesia, Philippines and Malaya which they hoped would lead to a meeting of Heads of Governments of the three countries. They would strive towards the achievement of a closer understanding between the three countries in matters of common concern and mutual interest.

5. The President and the Prime Minister wish to thank the Prime Minister and the Government of Japan for their kind hospitality, in particular the Foreign Minister of Japan who so generously made available his house for the purpose of this historical and eventful occasion.

1st June, 1962.

APPENDIX XIII

Tripartite Summit Meeting—Manila Declaration

The President of the Republic of Indonesia, the President of the Philippines and the Prime Minister of the Federation of Malaya, assembled in a Summit Conference in Manila from July 30 to August 5, 1963, following the Meeting of their Foreign Ministers held in Manila from June 7 to 11, 1963;

Conscious of the historic significance of their coming together for the first time as leaders of sovereign States that have emerged after long struggles from colonial status to independence;

Desiring to achieve better understanding and closer cooperation in their endeavour to chart their common future;

Inspired also by the spirit of Asian-African solidarity forged in the Bandung Conference of 1955;

Convinced that their countries, which are bound together by close historical ties of race and culture, share a primary responsibility for the maintenance of the stability and security of the area from subversion in any form or manifestation in order to preserve their respective national identities and to ensure the peaceful development of their respective countries and their region in accordance with the ideals and aspirations of their peoples; and

Determined to intensify the joint and individual efforts of their countries to secure lasting peace, progress and prosperity for themselves and their neighbours in a world dedicated to freedom and justice.

DO HEREBY DECLARE

First, that they reaffirm their adherence to the principle of equal rights and self-determination of peoples as enunciated in the United Nations Charter and the Bandung Declaration;

Second, that they are determined, in the common interest of their countries, to maintain fraternal relations, to strengthen cooperation among their peoples in the economic, social and cultural fields in order to promote economic progress and social well-being in the region, and to put an end to the exploitation of man by man and of one nation by another;

Third, that the three nations shall combine their efforts in the common struggle against colonialism and imperialism in all their forms and

manifestations and for the eradication of the vestiges thereof in the region in particular and the world in general;

Fourth, that the three nations, as new emerging forces in the region, shall cooperate in building a new and better world based on national freedom, social justice and lasting peace; and

Fifth, that in the context of the joint endeavours of the three nations to achieve the foregoing objectives, they have agreed to take initial steps towards the establishment of Maphilindo by holding frequent and regular consultations at all levels to be known as Mushawarah Maphilindo.

MANILA,

August 5, 1963.

SOEKARNO,

President of the Republic of Indonesia

DIOSDADO MACAPAGAL,

President of the Philippines

TUNKU ABDUL RAHMAN PUTRA AL-HAJ,

Prime Minister of the Federation of Malaya

APPENDIX XIV

Tripartite Summit Meeting—Manila Accord

The Governments of the Federation of Malaya, the Republic of Indonesia and the Republic of the Philippines, prompted by their keen and common desire to have a general exchange of views on current problems concerning stability, security, economic development and social progress of the three countries and of the region and upon the initiative of President Diosdado Macapagal, agreed that a Conference of Ministers of the three countries be held in Manila on 7th June, 1963, for the purpose of achieving common understanding and close fraternal cooperation among themselves. Accordingly, Tun Abdul Razak, Deputy Prime Minister of the Federation of Malaya; Dr. Subandrio, Deputy First Minister/Minister of Foreign Affairs of the Republic of Indonesia; and Honourable Emmanuel Pelaez, Vice-President of the Philippines and concurrently Secretary of Foreign Affairs, met in Manila from 7 to 11 June, 1963.

2. The deliberations were held in a frank manner and in a most cordial atmosphere in keeping with the spirit of friendship prevailing in the various meetings held between President Soekarno of the Republic of Indonesia, and Prime Minister Tunku Abdul Rahman Putra of the Federation of Malaya, and President Diosdado Macapagal. This Ministerial Conference was a manifestation of the determination of the nations in this region to achieve closer cooperation in the endeavour to chart their common future.

3. The Ministers were of one mind that the three countries share a primary responsibility for the maintenance of the stability and security of the area from subversion in any form or manifestation in order to preserve their respective national identities, and to ensure the peaceful development of their respective countries and of their region, in accordance with the ideals and aspirations of their peoples.

4. In the same spirit of common and constructive endeavour, they exchanged views on the proposed Confederation of nations of Malay origin, the proposed Federation of Malaysia, the Philippine claim to North Borneo and related problems.

THE MACAPAGAL PLAN

5. Recognising that it is in the common interest of their countries to maintain fraternal relations and to strengthen cooperation among their

peoples who are bound together by ties of race and culture, the three Ministers agreed to intensify the joint and individual efforts of their countries to secure lasting peace, progress and prosperity for themselves and for their neighbours.

6. In this context, the three Ministers supported President Macapagal's plan envisaging the grouping of the three nations of Malay origin working together in closest harmony but without surrendering any portion of their sovereignty. This calls for the establishment of the necessary common organs.

7. The three Ministers agreed to take the initial steps towards this ultimate aim by establishing machinery for frequent and regular consultations. The details of such machinery will be further defined. This machinery will enable the three governments to hold regular consultations at all levels to deal with matters of mutual interest and concern consistent with the national, regional and international responsibilities or obligations of each country without prejudice to its sovereignty and independence. The Ministers agreed that their countries will endeavour to achieve close understanding and cooperation in dealing with common problems relating to security, stability, economic, social and cultural development.

8. In order to accelerate the process of growth towards the ultimate establishment of President Macapagal's plan, the Ministers agreed that each country shall set up its own National Secretariat. Pending the establishment of a Central Secretariat for the consultative machinery, the National Secretaries should coordinate and cooperate with each other in the fulfilment of their tasks.

9. The Ministers further agreed to recommend that Heads of Government and Foreign Ministers meet at least once a year for the purpose of consultations on matters of importance and common concern.

MALAYSIA AND NORTH BORNEO

10. The Ministers reaffirmed their countries' adherence to the principle of self-determination for the peoples of non-self-governing territories. In this context, Indonesia and the Philippines stated that they would welcome the formation of Malaysia provided the support of the people of the Borneo territories is ascertained by an independent and impartial authority, the Secretary-General of the United Nations or his representative.

11. The Federation of Malaya expressed appreciation for this attitude of Indonesia and the Philippines and undertook to consult the British Government and the Governments of the Borneo territories with a view to inviting the Secretary-General of the United Nations or his representative to take the necessary steps in order to ascertain the wishes of the people of those territories.

12. The Philippines made it clear that its position on the inclusion of North Borneo in the Federation of Malaysia is subject to the final outcome of the Philippine claim to North Borneo. The Ministers took note of the Philippine claim and the right of the Philippines to continue to pursue it in accordance with international law and the principle of the pacific settlement of disputes. They agreed that the inclusion of North Borneo in the Federation of Malaysia would not prejudice either the claim or any right thereunder. Moreover, in the context of their close association, the three countries agreed to exert their best endeavours to bring the claim to a just and expeditious solution by peaceful means, such as negotiation, conciliation, arbitration, or judicial settlement as well as other peaceful means of the parties' own choice, in conformity with the Charter of the United Nations and the Bandung Declaration.

13. In particular, considering the close historical ties between the peoples of the Philippines and North Borneo as well as their geographical propinquity, the Ministers agreed that in the event of North Borneo joining the proposed Federation of Malaysia the Government of the latter and the Government of the Philippines should maintain and promote the harmony and the friendly relations subsisting in their region to ensure the security and stability of the area.

MEETING OF HEADS OF GOVERNMENT

14. The Ministers agreed to recommend that a Meeting of their respective Heads of Government be held in Manila not later than the end of July 1963.

15. The Ministers expressed satisfaction over the atmosphere of brotherliness and cordiality which pervaded their Meeting and considered it as a confirmation of their close fraternal ties and as a happy augury for the success of future consultations among their leaders.

16. The Ministers agreed to place on record their profound appreciation of and gratitude for the statesmanlike efforts of President Macapagal whose courage, vision and inspiration not only facilitated the holding of this historic Meeting but also contributed towards the

achievement for the first time of a unity of purpose and a sense of common dedication among the peoples of Malaya, Indonesia and the Philippines.

Approved and Accepted.

MANILA.

July 31, 1963

SOEKARNO,

President of the Republic of Indonesia

DIOSDADO MACAPAGAL,

President of the Philippines

TUNKU ABDUL RAHMAN PUTRA AL-HAJ,

Prime Minister of the Federation of Malaya

APPENDIX XV

Tripartite Summit Meeting—Joint Statement

The President of the Republic of Indonesia, the President of the Philippines, and the Prime Minister of the Federation of Malaya met at a summit conference in Manila from July 30 to August 5, 1963.

1. Moved by a sincere desire to solve their common problems in an atmosphere of fraternal understanding, they considered, approved and accepted the report and recommendations of the Foreign Ministers of the three countries adopted in Manila on June 11, 1963 (hereafter to be known as the Manila Accord).

2. In order to provide guiding principles for the implementation of the Manila accord the Heads of Government have issued a declaration known as the Manila declaration, embodying the common aspirations and objectives of the peoples and governments of the three countries.

3. As a result of the consultations amongst the three heads of Government in accordance with the principles enunciated in the Manila declaration, they have resolved various current problems of common concern.

4. Pursuant to paragraphs 10 and 11 of the Manila accord the United Nations Secretary-General or his representative should ascertain prior to the establishment of the Federation of Malaysia the wishes of the people of Sabah (North Borneo) and Sarawak within the context of General Assembly Resolution 1541 (15), principle 9 of the annex, by a fresh approach, which in the opinion of the Secretary-General is necessary to ensure complete compliance with the principle of self-determination within the requirements embodied in principle 9, taking into consideration:

- (I) the recent elections in Sabah (North Borneo) and Sarawak but nevertheless further examining, verifying and satisfying himself as to whether
 - (a) Malaysia was a major issue, if not the main issue;
 - (b) Electoral registers were properly compiled;
 - (c) Elections were free and there was no coercion; and
 - (d) Votes were properly polled and properly counted;
- (II) the wishes of those who, being qualified to vote, would have exercised their right of self-determination in the recent elections

had it not been for their detention for political activities, imprisonment for political offences or absence from Sabah (North Borneo) or Sarawak.

5. The Secretary-General will be requested to send working teams to carry-out the task set out in paragraph 4.

6. The Federation of Malaya, having undertaken to consult the British Government and the Governments of Sabah (North Borneo) and Sarawak under paragraph 11 of the Manila accord on behalf of the three Heads of Government, further undertake to request them to cooperate with the Secretary-General and to extend to him the necessary facilities so as to enable him to carry out his task as set out in paragraph 4.

7. In the interest of the countries concerned, the three Heads of Government deem it desirable to send observers to witness the carrying out of the task to be undertaken by the working teams and the Federation of Malaya will use its best endeavours to obtain the co-operation of the British Government and the Governments of Sabah (North Borneo) and Sarawak in furtherance of this purpose.

8. In accordance with paragraph 12 of the Manila accord, the three Heads of Government decided to request the British Government to agree to seek a just and expeditious solution to the dispute between the British Government and the Philippine Government concerning Sabah (North Borneo) by means of negotiation, conciliation and arbitration, judicial settlement, or other peaceful means of the parties' own choice in conformity with the Charter of the United Nations. The three Heads of Government take cognizance of the position regarding the Philippine claim to Sabah (North Borneo) after the establishment of the Federation of Malaysia as provided under paragraph 12 of the Manila accord, that is, that the inclusion of Sabah (North Borneo) in the Federation of Malaysia does not prejudice either the claim or any right thereunder.

9. Pursuant to paragraphs 6, 7, 8 and 9 of the Manila accord and the fifth principle of the Manila declaration, that is, that initial steps should be taken towards the establishment of Maphilindo by holding frequent and regular consultations at all levels to be known as *Mushawarah Maphilindo*, it is agreed that each country shall set up a national secretariat for Maphilindo affairs and as a first step the respective national secretariats will consult together with a view to coordinating and co-operating with each other in the study on the setting up of the necessary machinery for Maphilindo.

10. The three heads of Government emphasized that the responsibility for the preservation of the national independence of the three countries and of the peace and security in their region lies primarily in the hands of the governments and the peoples of the countries concerned, and that the three Governments undertake to have close consultations (MUSHAWARAH) among themselves on these matters.

11. The three Heads of Government further agreed that foreign bases—temporary in nature—should not be allowed to be used directly or indirectly to subvert the national independence of any of the three countries. In accordance with the principle enunciated in the Bandung Declaration, the three countries will abstain from the use of arrangements of collective defence to serve the particular interests of any of the big powers.

12. President Sukarno and Prime Minister Tunku Abdul Rahman express their deep appreciation for the initiative taken by President Macapagal in calling the summit conference which, in addition to resolving their differences concerning the proposed Federation of Malaysia, resulted in paving the way for the establishment of Maphilindo. The three Heads of Government conclude this conference, which has greatly strengthened the fraternal ties which bind their three countries and extended the scope of their cooperation and understanding, with renewed confidence that their governments and peoples will together make a significant contribution to the attainment of just and enduring peace, stability and prosperity in the region.

Indonesian Intentions Towards Malaysia

ISMAL BIN DATO' HAJI ABDUL RAHMAN*

BACKGROUND OF INDONESIAN EXPANSIONISM

Indonesian Aspirations

When the Japanese Army in Indonesia faced defeat and relaxed their pressures on South East Asia the self-revealing dreams and ambitions of the Indonesian leaders found expression in the Investigating Committee for the Preparation of Indonesia's Independence, which was established¹ on March 1st, 1945 by the Japanese Military Administration. It met in Djakarta in May and July 1945. Although no representatives from Malaya were present, Malaya was claimed for Indonesia on the ground that it had been included within the boundaries of past Indonesian Empires, particularly the Java-based Majapahit Empire. The history of past Empires was reinforced by Hitler's favourite science of geo-politics. Indonesian aspirations were most precisely defined by the late Professor Mohd. Yamin the leading exponent of Indonesian expansionism. He had been a close colleague of the Communist Tan Malaka in the early days of

* Minister of Internal Security, Kuala Lumpur, Malaysia.

the Indonesian nationalist movement. In 1957, on the establishment of Guided Democracy, Soekarno appointed him Minister of Social and Cultural Affairs, and Chairman of the National Planning Council: and, till his death in 1963, remained a close adviser to President Soekarno. "To separate Malaya from Indonesia", he told the Investigating Committee, "amounts to deliberately weakening from the outset the position of the People's State of Indonesia in her international relations"; for, he said, the Malay Peninsula in the past had provided a bridge for powers in Indonesia to cross over to the Asian continent. "The Straits of Malacca provides a passage to our islands while the Malay Peninsula forms the neck of our Archipelago. While to unite Malaya to Indonesia will strengthen our position and complete our entity and accord with our (i.e., Indonesian) national aspirations and be consistent with the interests of geo-politics of air, land and sea." For Yamin, these were no passing thoughts. In Singapore on his way to the Hague Conference in August 1949, he said: "After the fruition of the first Indonesian step in the Struggle for independence, Indonesia would then launch her second plan to form an *Ikatan Negara*² Selatan comprising Indonesia, Burma, Siam, Malaya and Vietnam and the Philippines". In a speech delivered in 1960 he included Burma, Siam, Vietnam and even Madagascar and the Polynesian Islands in *Melayu Raya*.

His views of 1945 were warmly endorsed at the time by Dr. Soekarno who spoke of a pan-Indonesia to include all the present Maphilindo territories. For him too, "Indonesia will not become strong and secure unless the whole Straits of Malacca is in our hands". According to him his dream had divine sanction. For he said: "God has determined that certain parts of the world should form single units. . . . when I look at the islands situated between Asia and Australia as between the Pacific and the Indian Oceans, I understand that they are meant to form a single entity".

It was Mr. Hatta who at the time saw the dangers of the Yamin-primed Soekarno expansionism with its racialist overtones. "This", he said, "is a most dangerous view because we have seen the result of the imperialistic policy pursued by the Germans which sprang from unrestrained passion culminating in the annexation of Austria and Czechoslovakia. In the end the Germans suffer for their greed. We must persuade our youth to think realistically, to do away with uncontrolled passion and, instead, to convert their passion to constructive effort in the development of the nation and in defence of our country". Of Malaya

specifically he said: "Let us leave it to the people of Malaya to decide whether they want to stand on their own feet or join with Indonesia, but let us not claim it for ourselves". He concluded: "Let us live within our own country—let us not encourage our youth towards imperialism." The expansionist views were further aired at the KRIS (Kesatuan Ra'ayat Istemewa Semenanjung—Peninsula Special People's Union) Conference in Taiping in August 1945 attended by Soekarno and Hatta. The dreams of the dawn of nationalism were never forgotten. And the return in 1957 to the Constitution of 1945 is not only a confession of internal failure, but a decision which puts the power of 1964 behind the ambitions of 1945.

The Communists too, with their keen eye for the inheritance of Western Imperialism in South East Asia, saw in the pan-Indonesian dream a means of establishing their power in the focal centre of South East Asia. Indonesian Communists established the Malay Nationalist Party (MNP) in Ipoh in October 1945. Alimin, the Moscow-trained Indonesian Communist of twenty years standing, nominated Surarto as leader of the Malayan Communist Party (MCP) after the war and Sutan Jenain, who first came to Malaya in 1910 and remained till he was banished in 1949, played an important role in the events leading up to the Communist-inspired and instigated Emergency. Early in 1946 Alimin gave courses of political instruction to MNP leaders. Tan Malaka who moved freely between Malaya and Indonesia in 1945-46, turned the abilities of those like Ahmad Boestamam and Ibrahim bin Haji Yaacob who had worked with the Japanese, to their own version of Communist Co-prosperity. Spheres of operation of their respective totalitarian monopolies were divided between the PKI and the MCP, but only because the Chinese, while still immigrant and communal-minded, seemed then the best vehicle for Communist ideas.

In the confusion of Indonesian politics after the Japanese surrender there were many party and individual ambitions. Until effective unity and power were established in Indonesia there was not—and could not be—any co-ordinated plan to woo Malays and Indonesians in Malaya and rally them to the support of Indonesia. At the same time Malayan nationalists were seeking their own political self-expression parallel with the struggle of the Indonesians, and no Malayan national movement had crystallised. In both States the pattern of politics beyond colonialism, and of the methods of fighting colonialism could not yet be drawn for the fact of nationalism was not yet established in either country: Indonesian and

Communist expansionists seized the opportunities of exploiting the confusions of the situation.

Indonesia's First Relations with Malaya—1946 to 1948

From 1946-48, rival groups within the resident Indonesian community in Malaya competed for recognition of their importance by the newly-created Indonesian Republic, and for the political and economic opportunities recognition would bring. Moreover, the many political groups and economic interests in Indonesia sought to use Singapore as a lever of political power, a source of economic wealth and a centre of diplomatic activity. As the Dutch, on the other hand, brought pressure on the colony's government to deny these advantages to the Indonesian groups and to turn them to their own use, the Indonesians camouflaged their activities by forming double-purpose organisations, one above ground and one under ground. By October 1946, Indonesian Groups were turning their attention to the possibilities of trade with Malaya, as a source of income, in the absence of any effective fiscal system for raising funds. The products of the Republic were exchanged for other "goods" which might assist in the struggle against the Dutch, including armaments, and improve the financial standing of the political groups or individuals participating. Sumatra took the lead. The trading companies of Namsoco, Noesantara, Sharikat Negara, the Indonesia Importing and Exporting Company were set up in Singapore for trade with Sumatra, whilst the Indonesian Import and Export Company of 80 Robinson Road, Singapore, traded with Java. Most of them had official connections, either in finance or managerial control, and were formed with the object of doing political work without attracting attention. A provisional Indonesian "Republic" office was set up in Singapore in September 1946 under S. Darvesman. But Tengku Hassan, Governor of Sumatra in 1946, also sent five agents of his own to Singapore under the leadership of Tahir Karim Loebis, who set up his own cover company, the Kantoer Perhoeboengan Propensi, in Change Alley. He reported direct to the Indonesian Army authorities (Tentera Republik Indonesia) and carried out extensive propaganda as well as spying.

The quarrel of these Sumatran groups led Dr. Sutan Sjahrir in March 1947, to send the Javanese Secretary-General in the Foreign Ministry Dr. Oetoyo, to act as Indonesia's first diplomatic representative and open the Indonesian office in Singapore to curb the activities of these unwanted trading corporations and to co-ordinate the political activities

of all Indonesian Associations in Malaya without arousing any suspicion of interfering in Malayan internal affairs. He laid the ground-work of formal organisations for Indonesian intelligence, information and cultural identification in Malaya. He sought to establish the authority of his office in Malaya beyond challenge, to curtail the activities of rivals from Indonesia, to gather intelligence through agents and to penetrate Malay and Indonesian organisations with the object of spreading the doctrine of a Greater Indonesia within which Malaya would find its "freedom". He encouraged illegal immigration from Indonesia and stood surety for any illegal immigrants who were arrested. He financed Bizar Ahmad, the Indonesian Vice-President of the Communist-dominated Singapore Federation of Trade Unions. He also sought commercial cover for purposes other than those generally undertaken by a Consul. Although his consular office was at 3C Raffles Place, he worked through the merchant firm of Namsoco at 4B Raffles Place, and another Banking Trade Corporation, for the purchase of arms. The direction of intelligence activities was to change with the needs of the Indonesian Republican leaders. At first when Indonesia was struggling for survival, action was defensive. Intelligence was sought on the activities, political, diplomatic, economic and military, of dissident Indonesian groups, and on black market and smuggling activities which drained the economic energy from the new Republic. Once the Republic became strong, intelligence was sought about political activities within the Malaysia-to-be territories, either of groups of Indonesians, which were not amenable to Indonesian pressure or blandishments or, on the other hand, groups in which Indonesian officials could play the role of back-seat driver to Indonesia's interest.

No less important was the aim to turn public opinion in Malaya in an Indonesian direction. Attention was concentrated on the fringe of Malay extremist groups on racial grounds; on youth groups whose enthusiasm and frustrations could be worked on, who could be mobilised for training, and who would take the risks of subversive action; on Communist groups because of their anti-colonial policy, and on groups of Indonesian-born, or Malaya-born groups of Indonesian origin, who, like the Boyanese, kept close links with their island of origin, who could be brought to respond to the appeal of Indonesia Raya, and who could influence local-born Malays by the appeal of identity of culture, race and religion. The argument was at times anti-colonial and anti-European, at

others anti-Chinese, always with the suggestion that Indonesia had shown the way to power and wealth for the Malays. For instance, Dr. Oetoyo in April 1948 while on a visit to Penang to prepare the way for the opening of an Indonesian Consulate there the following month, said, "I hope Indonesians living in Malaya will regard Malays as people of Indonesia, because this is one way to attract them to the Republic's cause. Malaya is part of the Republic." On 7th May, 1954, Dr. Razif, Consul-General in Singapore, in a farewell speech in Kuala Lumpur, then within his jurisdiction, said that Indonesian subjects in Malaya should take an active part in politics to help Malays and not only Indonesians residing in Malaya. But they must always bring information to the Indonesian Consulate-General. Similar advice was given by President Soekarno himself when he visited Singapore on 18th July, 1955, on his way to Mecca. "Stay here permanently", he said, "as long as your hearts are with Indonesia . . . We shall help every nation struggling for independence". But that his wish that Indonesians should remain abroad was based on narrowly Indonesian interest was shown by his different advice to the Indonesians whom he met in Mecca not to remain there, but "to return to their homeland for the rehabilitation of Indonesia".

To encourage Indonesian nationalism, to safeguard Indonesian prestige and interests, and to form centres of attraction for Malays, Indonesian groups were organised or re-organised. In 1947 the Kesatuan Pemuda Indonesia (Indonesian Youth Association) was formed from four Indonesian underground movements existing in Singapore, the *Kumpulan Pemuda Indonesia* (Indonesian Youth Group), the *Badan Pemberontak Indonesia Blakang Mati* (Indonesian Rebel Movement of Blakang Mati), the *Badan Pemberontak Kalimantan* (Kalimantan Rebel Movement), and the *Rukun Agawi Santoso* (Disciples of Agawi Santoso). In September 1947 the President and three other members were arrested for being in possession of arms. The *Ikatan Bangsa Indonesia* (Indonesian National Unity) also an amalgamation of other societies, was formed in 1948 to train its members in unarmed combat in support of the interests of the Indonesian Republic. An Indonesian intelligence agent sat on its committee. The *Persatuan Bawean Singapura* (the Boyanese Association of Singapore) was formed in 1945 as an unexceptionable association of people from the same birth-place, but it naturally attracted those who wished to exploit it for ideological or patriotic purposes, and the Indonesian consular officials kept in close touch with its activities.

The Indonesian Club was established at 70 Goodman Road in 1951 under the auspices of the Indonesian Consulate-General and with Indonesian Consular officials. It moved to 51 Sultan Gate in January 1956 and appeared to have lapsed till a meeting was held in the Indonesian Consulate-General in July 1959 to revive it, in new premises at 135 Bukit Timah Road.

Other associations were formed for religious purposes such as the Nahdatul Ulama Singapore, a branch of one of the four major political parties in Indonesia. The Muhamadiyah movement founded by an Indonesian agent and religious teacher was the channel by which many Muslim leaders from Indonesia came to Singapore. Finally, there were the groups formed to influence internal politics. In 1948 the Indonesian Consulate assisted in the formation of the Persatuan Indonesia Merdeka in Kuala Lumpur to extend Indonesian influence and oppose UMNO. The Batu Pahat Indonesian Association was formed in 1951.

The chief instrument for collecting political information and intervening in Malayan politics was GERAM (Gerakan Angkatan Muda) which had been established in 1946 by Thaharuddin Ahmad whom Dr. Oetoyo appointed Head of his Information Office. Ahmad was in close touch with the Malay Nationalist Party, the Malayan Communist Party and the Indonesian Communist Party. Then, as now, Indonesian agents offered to Malays the opportunity to visit Indonesia for training in political and military activity to be used in Malaya, and financial support during their training. He infiltrated Indonesian agents into Malaya. He co-operated with the Pan-Malayan Council of Joint Action in establishing an Indonesian Aid Committee. He was engaged in the smuggling of arms of Indonesia. GERAM applied for registration as a political party in January 1948, but, with the onset of the Emergency, this was refused and the organisation lapsed.

Indonesian Allies in Malaya

There was also constant contact with individual Malay extremists and an effort to get them to influence their respective organisations to a policy favourable to Indonesia. In the years from 1945-48, the group which urged most strongly the idea of Indonesia Raya was the Malay Nationalist Party established with Indonesian funds in October 1945 by Moktaruddin bin Lasso, an Indonesian Communist and member of the Communist-organised Malayan People's Anti-Japanese Army (MPAJA). Dr. Burhanuddin was Vice-President (becoming President on

Moktaruddin's return to Indonesia early in 1946) and Ahmad Boestamam was the Secretary. Boestamam who was born in Malaya shared the views of Ibrahim bin Haji Yaacob with whom he had worked as a journalist and as a member of the KMM (Kesatuan Melayu Muda) founded in 1940 and of the Japanese propaganda organisation. Boestamam supported Indonesia Raya, and violence as the means of achieving it. "Merdeka dengan Darah"—Freedom through Blood—was its motto. The MNP showed its Indonesian heart by flying the Indonesian flag, adopting the Indonesian national anthem and acknowledging Soekarno as its leader. A pamphlet issued on 15th May, 1946, declaimed: "All the 72 millions of the people who are Malays and Indonesians shall be under the Red and White flag . . . The flag shall be made by the Indonesians and the national anthem has been decided by Dr. Soekarno. Malaya is Indonesia". The MNP defined its objective as "Dominion Status within the Greater Indonesian Empire". Boestamam formed the API (Angkatan Pemuda Insaf) as a strong-arm Inner Group of MNP. In a Kelantan celebration in 1947 of the Indonesian Independence Day, the local API leader declared "API will fight and sacrifice blood for the complete independence of Indonesia which includes the Malay Peninsula, northwards to the isthmus of Kra". Ishak bin Haji Mohammed, one of the pro-Communist leaders in the MNP, said that the initials of API stood for Angkatan Pembantu Indonesia (Group for the aid of Indonesia). The MNP accepted the necessity for a period of outright rule by Indonesia. At this time Dr. Burhanuddin was in touch with the military authorities in Sumatra, had his own trading organisation with Sumatra to finance his activities, and in October 1948 when the Emergency brought difficulties for the MNP with the arrest of officials such as Boestamam he successfully appealed for funds to the Governor of Sumatra. In 1950 the MNP lapsed when it failed to apply to Government for a renewal of its registration.

Its work was however taken over in Indonesia by Ibrahim bin Haji Yaacob who had led the KMM in Malaya before 1942, had worked closely with the Japanese during the occupation. There he established close relations with the PKI. In 1950 he formed the Malayan Independence Union and kept close and constant contact with extremist parties and individuals in Malaya. He was also supported by two groups of Malays in Indonesia: the *Perdjuang Kemerdekaan Melayu* (Malay Independence Struggle Group) under Mustaza, a friend of Dr. Burhanuddin, who fled to Indonesia with Ibrahim bin Yaacob, and the

Malayan Overseas Youth Group (Perikatan Pemuda Melayu di-luar Tanah Ayer). No action has ever been taken in Indonesia against these groups. Ibrahim bin Haji Yaacob (IBHY his political name) has now been appointed the representative for the Rhio Islands on the present Indonesian People's General Assembly in order to keep him physically as well as politically near the Malaysia he has continuously plotted to subvert. Meanwhile in Malaya there continued to be a fringe of small groups of militant, extremist, Malay groups, communal in ambition, violent in method, and looking to Indonesia for inspiration, and to the Indonesian Consulate-General in Singapore for active help. One such was the Malay Social Club in which the dominant influence was that of Bong Kahar, who was later to organise the extremist Malay Hang Tuah and ARTIS movements in Singapore and to be the chief recruiting agent through Party Ra'ayat for Indonesian courses in subversion in 1963.

From 1950-54 during the crucial years of the Emergency, political activity in Malaya was quiescent. But with the MCP in retreat in the Emergency and the rising strength of UMNO in the Federation of Malaya, with the political activity in Singapore centred on the 1955 election and the emergence of the Communist left in politics and in the trade union field under Lim Chin Siong, and in the climate of the Bandoeng Conference in 1955, political problems again became dominant in Malaya as the final stage of the road to independence was opened up. Dr. Burhanuddin re-entered politics with the All-Malay Youth Conference in Kuala Lumpur in April 1955. Dr. Burhanuddin attended the Bandoeng Conference. His expenses were paid by the Indonesian Consulate, and during his visit to Indonesia, he discussed his political plans with Ibrahim bin Haji Yaacob. On his return, he co-founded the Parti Ra'ayat in 1955 with a constitution based on that of President Soekarno's Parti Nasional Indonesia. Azahari attended the inaugural meeting. Ahmad Boestamam then recently released from detention, was elected Chairman, Dr. Burhanuddin was only appointed as an adviser. The following year, however, he became President of the PMIP in which capacity he continued his support for Indonesia Raya. The PMU (Peninsula Malay Union) was founded in Kuala Lumpur in 1950, and its Singapore Branch was set up in 1951: but its impact was less than that of the Party Ra'ayat and the PMIP and gave little scope to the Indonesian officials till 1963. The Indonesian Consul-General in Singapore and later the Embassy in Kuala Lumpur were to give every encouragement to the pro-Indonesia and anti-Malaysia and anti-UMNO policies of these parties.

PREPARATION FOR AGGRESSION

The Indonesian Army Takes Over (1958)

Until 1958 Indonesian intelligence activities in Singapore and Malaya lacked direction, organisation, continuity and consistency, and reflected the conflicting interests, personal, political and economic, of the different political groups represented among the members of the Indonesian Consulate-General staff in Singapore, and of personal rivalries among the staff.

The atmosphere changed with the arrival of Brigadier Gudi Pengeran Harco Djatikusumo in Singapore on 13th November, 1958, as Consul-General for the Republic of Indonesia. The personnel change coincided with a political change. Both Indonesia and Malaya are now independent and unencumbered nations with the withdrawal of the colonial powers and with the mastering by each of internal opposition. Djatikusumo was a military officer, the first to be appointed as Indonesian representative in Singapore and in Kuala Lumpur in 1961, and he had fought in the Sumatra campaign. Col. Soegih Arto, another military officer who had been engaged in the Sumatra campaign was to succeed him in Singapore. Djatikusumo represented both the Javanese centralism called Guided Democracy, established by President Soekarno in 1957, and the Army which had quickly quelled the military opposition of the Pemerintah Revolusionere Republic Indonesia (PRRI) in Sumatra and the Outer Islands in mid-1958. He saw his task as one of actively, and with military directness rather than diplomatic tact, continuing to combat any sympathy, active or passive, for the PRRI or its political attitudes or hostility to Indonesian purposes. His attitude in independent Malaya was the same as in colonial Singapore. One of his first acts as Consul-General in Singapore was to dismiss all Sumatran members of his staff. He represented the first active assertion of Indonesian political and military power in South East Asia, in a centre of strong strategic and commercial interest for Indonesia, and moved from defensive to aggressive domineering intervention in Malayan politics.

The Federation of Malaya had broken the Communist challenge and has achieved independence in 1957. In Kuala Lumpur and not in London now lay responsibility for external relations. Similarly, from 1959, Singapore had full internal self-government, and its government, in matters of politics and external trade, were expressing an independent point of view. The Indonesian Government considered it legitimate to

attempt to shape the policies, now a matter of independent choice by her nearest neighbours, to her own conception of Malayan relationships with her.

It was not the novelty of the instruments used which changed with the coming of Djatikusumo but the strength and openness of their use. The new policy was expressed in the new personal style Brigadier Djatikusumo brought to his aggressive salesmanship and representation. He maintained close contact with the press, openly visited Malay and Indonesian groups to give his views on Malayan affairs and to collect information, announced a policy of student exchange and proposed a series of lectures throughout Malaya on Indonesian subjects. He issued instructions to his staff for the collection of information about the strength of the Armed Forces in Singapore. All members of the Consulate staff were required to report direct to him daily and the intelligence organisation was tightened up within the Consulate-General, both in Singapore and the Federation. Although an Indonesian Embassy was opened in Kuala Lumpur in September 1957, Singapore remained the centre of Indonesian intelligence activity. He moved quickly. Three months after Djatikusumo's arrival an Indonesian agent was arrested for spying on military establishments. His equipment included a miniature camera, a wristwatch, microphone, a mini-tape recorder and a cine-camera, supplied by the Consulate-General. This arrest led to the temporary closing down of the formal intelligence organisation but on the instruction of the Attorney-General's office in Djakarta, its premises were held vacant ready for re-occupation when suitable staff could be found. It was reopened in August 1961.

By the time of Brigadier Djatikusumo's departure from Singapore in 1959 the intelligence activities were reorganised into three sections—the military under Major Soetopo, the Navy under Major Pardjono assisted by Lt. Bambang Partono, and the Civil under Vice-Consul Wongsodidjojo Koesto. Reports from the Rhio Islands on the trading activities of Singapore merchants were brought to Singapore by women agents escorted by "husbands" who were not allowed in hotel rooms while reports were being written. The agents sought information on the PRRI rebels, on commercial and currency deals, on Singapore political leaders considered opposed to Indonesia, on Special Branch officers and on infiltration of Indonesian sponsored societies, on military and police information about Singapore, and on corruption in their own Consulate. In addition to the resident organisation in Singapore, special missions

were periodically sent from Djakarta, under cover of membership of ship's crews or commercial organisations, or as plain illegal immigrants.

Non-intervention in Indonesian Practice

The activities of the Indonesian diplomatic staff at this time are best illustrated by Raden Koesto Wongsodidjojo, who was in-charge of political intelligence and was one of the most active intelligence officers. Even while a Vice-Consul in Singapore, he took precedence and responsibilities far beyond his nominal rank, and from 1960-63 he moved from the rank of Vice-Consul to that of Dy. Consul-General. He had served in the Dutch, Japanese and Indonesian armies before joining the Indonesian Foreign Service which had posted him to London and Tokyo before he came to Singapore. He played the conventional game of the agent with two number plates for his car, one to be used with the "C.C." of the Consular Corps, the other to be used when on political or commercial investigations.

In October 1960, Koesto called a meeting of Boyanese Association in Singapore to urge members to join the Indonesian Club and mix more with the consular officials. In November 1960 he spent fourteen days in Brunei and North Borneo, mostly in the villages. It was he who speedily recruited the West Irian Volunteers in April 1962 and despatched them to Djakarta within two weeks of registration.

In April 1962 he was transferred from the post of Head of the Secretariat to Head of the Intelligence Service, inheriting the directorship of the "cover" company of Tunas Ltd. Later in the year, following the speech of the Federation Prime Minister to an UMNO seminar in Morib, protesting against the Indonesian opposition to Malaysia, Koesto and four of his agents visited villages in Singapore to assess their reaction to the speech. He later arranged for Rudy Gontha, the Information Officer, to meet Boyanese and other Indonesian leaders twice a week to win and maintain their support for the Indonesian cause. He himself addressed them and put the blame for the worsening Indonesia-Malaya relations on the Federation's Prime Minister. After the defeat of the Barisan Sosialis in the Singapore Referendum in September 1962, Said Zahari, Lim Chin Siong and Mahadeva were in close and regular touch with him and he was urging them to stronger action over the Brunei rebellion. He arranged for Said Zahari and Mahadeva to visit Indonesia in February 1963 for a conference of the Indonesian Writers' Association. The degree of importance the Consulate-General attached to this visit was

shown by the fact that Colonel Soegih Arto himself along with Koesto and other officials of the Consulate-General went to the Airport to see them off, though it was only to find they had been arrested for Communist United Front activities by the Singapore Police that morning.

Koesto was M. Azahari's link with the Indonesian Consulate-General. It was he who attempted to get representatives of the anti-Malaysia Parties in Singapore and the Federation to attend the mass anti-Malaysia Rally in Medan, Sumatra, on 31st August, 1963, and it was he too who contacted the Barisan Sosialis, the United Democratic Party and certain unions during the Manila Conference to persuade them to send telegrams to President Macapagal saying they would not accept Malaysia without a referendum in the Borneo Territories. It is no wonder that he accepted transfer in August 1963, because he feared that his credentials would be withdrawn as those of Major Moenarajo, the Vice-Consul in Jesselton has been withdrawn the previous June. Yet five days before his compulsory departure on 24th September 1963, with the other members of the staff of the Consulate-General he told the President of the PMU in Johore that the task of the PMU was to "unite Malays and local Indonesians in a revolution to overthrow the Tengku's Government".

As the numbers of the staff of the Indonesian Consulate-General in Singapore had grown to 50 officials from Djakarta and 150 locally-recruited, their means of influencing others and of gathering information were extensive. Local Malays and Indonesians were brought in to help to organise the Indonesian National Day celebration. At the social gatherings at the spacious residence of Melati, the Indonesian Consul-General moved for prestige and entertainment, in which opportunities were provided for agents to meet each other and meet consular officials for the first—but not the last—time. A new office block complete with cultural and information display centre was put under construction in Orchard Road early in 1963. Plans were approved in January 1963 for an Indonesian School in Singapore. In 1961, Indonesian troops of Boy Scouts and Gril Guides (Pandu Indonesia) and a pack of Wolf Cubs were organised for Singapore Malays on the suggestion of Col Soegih Arto. They were organised by Sarjono, the Indonesian Information Officer, and led by one of his staff. They met, first at the Indonesian Association and later at Col Soegih Arto's house in Grange Road. The patrol leaders and Rover Scouts were drawn from Malay schools in Singapore.

Espionage

It is the acknowledged function of all diplomatic agencies overseas to study political trends, seek economic opportunities, and assess the military strength of the countries to which they are accredited, and underground methods, though deplored, are not denied. The Indonesian officials as we have seen had their own groups of agents to supplement their own activities in collecting material for them. Early in 1961, the military Governor of West Java, Brigadier General Masodi, during a transit visit to Singapore took photographs of the Singapore Harbour Board, the RAF station at Changi, and the Singapore Military Force camp at Ulu Pandan. Indonesian agents were encouraged by consular officials to find jobs in the Service establishments. In 1961 Major Soetopo, in charge of military intelligence, issued instructions to his agents to collect military information, to find out beaches where it was safe for Indonesian ships to land, and to recruit agents to supply security information about Singapore. Early in 1963, Lt. Partono tried to infiltrate the West Irian volunteers into Services establishments in Singapore.

Relations with Political Organisations in Singapore and Malaya

The existence in Malaysia of political parties which for communal and communist reasons sought either Indonesian domination or assistance in pursuit of their partisan ambitions as against the national interest, gave Indonesian officials the opportunity they sought, for exploiting internal differences in Malaysia to their own ultimate advantage. As they had assisted the Malay Nationalist Party before the Emergency, so now they assisted the PMU and the Party Ra'ayat increasingly, as power was transferred to the people of Malaya with independence under a democratic constitution. Officials of the PMU and Party Ra'ayat were assisted (and financed) by the Indonesian Consulate-General in Singapore to attend PKI and pro-Communist Partindo Conferences in Java. Not only was help given to recognise political parties, but underground activities were encouraged and condoned. At the time of the ARTIS conspiracy organised early in 1961 by the few Malay extremists in Singapore to foment anti-Chinese rioting there, Major Soetopo, the Military Attache of the Indonesian Consulate-General, offered to help the Malays, Javanese and Boyanese

ARTIS: Angkatan Revolusi Tentera Islam Singapura — The Singapore Islamic Revolutionary Armed Forces.

involved. Eight of the fugitive conspirators were officially welcomed on arrival at Tanjung Pinang, the administrative centre of the Rhio Islands, and given political asylum. An official of the Singapore Consulate was later sent to Djakarta to look after their welfare. A West Irian volunteer wrote from Djakarta in September 14th, 1962 after meeting the ARTIS refugees: "They are free to expand their ARTIS movement here Such is the honour shown by the Indonesian Government towards them".

The most active Malayan proponent of Indonesia Raya has been Ahmad Boestamam who has worked hand in glove with Indonesians, official and unofficial, for its achievement. His close relationship with the Indonesian Consulate-General in Singapore dates from 1956 when his report on Darul Islam supporters in Kuala Lumpur won their warm appreciation. In 1957 he was in regular touch with Dr. Razif the Indonesian Ambassador in Kuala Lumpur. In 1956 he appointed Ibrahim bin Haji Yaacob as the representative of the Party Ra'ayat of Malaya in Indonesia. In September 1960 Boestamam and Ishak bin Haji Mohamed, Chairman of the Socialist Front, supported the formation of the Perakan Pemuda Malaya Raya whose aim was the "restoration of the National Sovereignty of the Melayu Raya". An official of the Indonesian Consulate-General attended the opening meeting of the Singapore Branch of the Party Ra'ayat in March 1962. Four cadres were sent for training. When in 1962 he planned the APRM (the Party Ra'ayat Youth Movement) intended to be the strong arm youth group of the Party Ra'ayat (as API was to the MNP) he was in touch with Indonesian Army representatives in Singapore for assistance.

His support for Indonesia has been unqualified. "Politically speaking", he said, "I am an Indonesian. Although I was born in Malaya, my allegiance is with the Republic of Indonesia." In a statement on 13th February, 1963, after his arrest he wrote: "My long-term political objective plan is the unification of Indonesia, the Philippines, the Borneo Territories, South Thailand, Malaya and Singapore into a greater Malaysian State. I regard an armed revolution as legal, if constitutional means are not available". His theories have been put into practice in his support of Azahari. When Boestamam visited Brunei in July 1961 and later in August 1962 he met Azahari and visited one of his training camps. He helped the Brunei Party Ra'ayat in its election campaign. After the rebellion broke out, he was in touch with the rebels through the Partindo office in Medan with which and through which he planned an escape route from Malaya to Indonesia.

West Irian Volunteers

The recruitment of volunteers for the West Irian campaign proved to be the most effective camouflage for the active propaganda and mobilisation to help for Indonesian purposes. President Soekarno made his first appeal for volunteers for West Irian on December 22nd, 1961. Action was taken within a fortnight by the Indonesian officials with the full and prompt support of Party Ra'ayat, the Labour Party of Malaya and the Barisan Sosialis. On January 6th, 1962, a mass meeting of 2,000 brought in 18 buses and 23 lorries to the Consul-General's house in Singapore set up the West Irian Liberation Relief Committee (Panitia Pembantu Pembibasan Irian Barat) under the patronage of Col Soegih Arto, the Consul-General and the Chairmanship of Sūkaimi of the Indonesian Information Office. 9 Indonesian officials were members of the Committee. A Chinese Section was formed, and without waiting for registration, 13 branches had been formed in Singapore (including significantly Changi, Seletar and Sembawang among workers in the RAF and Naval bases) and \$65,000 had been raised. On Party Ra'ayat instigation 300 groups were invited to attend a mass rally in support of the Committee on February 4th, but only 13 groups sent representatives. As a result of a direct approach by Barisan Sosialis leaders to Col Soegih Arto, a Chinese Section was established on January 14th, and one week later the Barisan Sosialis organised a mass rally near a cinema in Changi Road. Meetings, film shows and Malay classes were organised for them at the Indonesian Association premises. But as they spoke in Chinese, and kept to themselves, the Malay classes were stopped and the group was denied the use of the premises. The group organised a celebration of the Communist Women's Day on March 8th. Many of the committees were Communist sympathisers and became West Irian volunteers in 1962, and returned to Indonesia for sabotage training in 1963.

The fullest use was made of the Boyanese Association and the Indonesian Association in its new premises in 135 Bukit Timah Road, Singapore. Col Soegih Arto visited groups of Indonesians in Rengam, Batu Pahat and Johore Bahru. A meeting of consular officials decided to try to arrange for the Boyanese community in Johore Bahru to visit Col Soegih Arto as a demonstration of solidarity with the Indonesian Government over West Irian. In 1961 Col Soegih Arto visited Rengam to meet the Indonesian Association officials. In November 1962, under the guise of a "safety drive" Col. Soegih Arto, four other officials and others visited Batu Pahat where there are many Indonesians and where

the breaches are convenient landing places from Sumatra. In May 1962 the Indonesian Association in Kuala Lumpur asked Isa Zain, a former member of MNP and PMU and a close Indonesian agent, to form a similar relief committee in Kuala Lumpur. Three hundred volunteers for West Irian were registered in Singapore from April 5th to 9th. Fifty were finally selected after thorough interview which probed into their connections with political parties and leaders.

The thirty-five Singapore citizens—twenty-five Malays and ten Chinese—began training at the Indonesian Consulate-General's house on April 15th, and on April 20th flew to Djakarta. The other fifteen being Federal citizens remained behind and received further military training from Lt. Bambang Partono. They were joined on July 2nd by the seventy-three selected from the four thousand seven hundred volunteers in the Federation, mainly from Negri Sembilan and Johore. The total of eighty-eight left for Djakarta on July 15th. Their initial training in an army camp in Jalan Bidara China, Djakarta, lasted four months. After a total of seventy hours of military drill, followed six weeks of handling of weapons including the rifle, Bren and Sten guns, hand grenades, cannon and mortar.

Political indoctrination was an essential part of the training. They were given lectures on Guided Democracy, Panchasila, Malay and Indonesian History and on the "Greater Indonesian Oath". Among the lecturers was Ruslan Abdul Ghani, the Indonesian Minister for Information. One lecturer, a Col. Johartono told them, "When you return to Malaya, don't be idle. Struggle on against Tunku's Government. If you can't get the head, catch the tail. Indonesia will be ready to help you". Each was presented with thirty books, the nature of which was to alarm the Indonesian officials in Singapore when they heard some had been found by the Police in the possession of volunteers returning to Singapore. The drift of the private conversations with their instructors was that Soekarno was the national leader of the world's third strongest military power, while Tunku Abdul Rahman was a "colonial stooge" in a small country.

As the training began in July 1962 and the West Irian issue was resolved with the agreement between Indonesian and the Dutch for the transfer of West Irian the following May, their training had no relevance to West Irian and their indoctrination concerned itself the move with Malaysia. Most significant of all in this context was the establishment of APREMA (Angkatan Pemuda Revolusione Malayan) among the

volunteers. It was a clandestine organisation for the revolutionary overthrow of the Malayan Government and its replacement by a pro-Indonesian Government. They were left in no doubt of their transfer of support to Indonesia. Their role was—"Kamu di-ibaratkan sa-bagai atom di-mana kamu di-jatuhkan, di-sana kamu meletop". (Like atom bombs, wherever you may land, there you will explode). They were told to live among the civilian population to be ready to lead civil disturbances. They were to form cells of ten volunteers as groups of the *Kumpulan Istimewa* (Special Group). Shamsuddin Nur would supply small arms. Members sealed their oath by signing their names in a "Book of Blood" followed by their left thumb-print in their own blood. Twenty-eight took the oath, including seven from Singapore.

This scheme points back to the Party Ra'ayat which played a major part in recruiting and selecting the volunteers and bringing them to Indonesia, as APREMA derived from the same source, it must be seen as a part of one scheme. In December 1961, Boestamam visited Indonesia (at Indonesian expenses) to attend a conference of the Partindo of which Ibrahim bin Haji Yaacob, leader of the KMM, was National Treasurer. He stayed in Ibrahim's house. There he met Aidit, leader of the PKI who told him to oppose Malaysia to the hilt and to support all anti-Malaysia resolution at the Socialist Parties' Conference to be held in Kuala Lumpur the following January. The Malayan Party Ra'ayat leader Boestamam appointed two Party Ra'ayat representatives in Indonesia—Baharuddin Tahir, a former member of the KMM and MNP who had been deported from Malaya for his Communist activities and Shamsuddin Nur bin Nurut, Malayan born, and a former member of the MNP. Shamsuddin is now a Sergeant-Major in the Indonesian Service of the Indonesian Army which he had joined in 1945 after escaping from Malaya, and had discussed with him as early as 1958 the creation of an underground movement. He came to Malaya in 1948 to join the nationalist forces but returned to Indonesia immediately the Emergency began to rejoin the Indonesian Army. He later took a one-year cadre course organised by the PKI in 1959. On this visit Boestamam also arranged to send four Party Ra'ayat cadres for training by Partindo. One of these was Ruslan Shariff, who went to Indonesia in November 1962 for the course, and met Ibrahim and Yassim Effendi, the Brunei rebel leader. Shamsuddin Nur and Ruslan Shariff promoted the formation of APREMA, through Salwi, a volunteer who was another member of Party Ra'ayat and a close friend of Boestamam. Ruslan Shariff returned to

Johore in February 1963 to organise APREMA cells. It is this group, used by pro-Communist and anti-Malaysian elements in Indonesia to carry out the anti-Malaysian policy of Indonesia and to become its chief instrument in subverting the present Malaysia Government and taking over on behalf of Indonesia. Shamsuddin Nur now uses the title of Major-General of the so-called Tentara National Republic Malaya (National Army of the Republic of Malaya) while Ruslan Şhariff holds the rank of Brigadier-General in charge of TRNM activities in Malaya and Singapore.

On November 17th, 1962, thirty-two of the volunteers returned. The remainder were then sent to the Sekolah Pasokan Komando Angkatan Darat (Land Forces Commando Training School) for training in parachute jumping and operation in difficult country. Of the thirty-five volunteers from Singapore eighteen were selected for further training. It had been the intention to keep the volunteers longer, but on December 23rd, the training of the eighty-three was abruptly stopped and all were flown back to Singapore the following day. The volunteers were told this step was made necessary because the Federation Government would suspect Indonesia of keeping them for service in North Borneo. They would have been used in this way if the Brunei rebellion had spread. But in the new situation, the Indonesian authorities feared that the value of the training would have been wasted, if the Malayan Government forbade their return. There they would be in the field for action, and could be recalled for secret training when necessary, without loss of their rights of residence in Malaya.

The experiment had been successfully made of recruiting Malaysians for Indonesian purposes. Clearly it was never intended as a military exercise, but as an exercise in psychological warfare. It had gained the added publicity for Indonesia which helped to win the diplomatic battle at the United Nations. It had built up the impression that Malaya was behind Indonesia on the West Irian issue, and by implication accepted Soekarno as an anti-colonial leader whom Malaysians would follow. And it had pioneered a new path of political penetration into Malaya. After March 1963 the same tactic was to be employed against Malaysia itself in the name of "confrontation". At a tea-party given by Col. Soegih Arto, the Consul-General, on their return to Singapore each was given \$25 on signing agreements to serve the Indonesian Government for three years at a salary of 750 rupiahs a month. This transfer of authority, if not, for all, of loyalty, made them look to the Indonesian Consulate-General

to give them employment, for outside employment was difficult to find. The responsibility for them was delegated to Lt. Bambang Partono, the Assistant Naval Attache. He found difficulty in finding jobs for them even in Indonesian firms and shipping companies in Singapore, such as the Aneka Shipping Company (later re-titled the Malaysian Transport Company) with which he promised in March 1963 to find employment to keep them in touch with him on his imminent departure to set up his intelligence headquarters on Pulau Samboe. In March 1963, six, on Lt. Partono's instructions applied for civil employment with the British services but without success. The attitude of authority over, and responsibility for them, was shown when twenty were called in June for training their part in the Indonesian National Day Ceremony. They continued to grumble about lack of promised jobs and inadequate allowance.

INDONESIA'S "CONFRONTATION" OF MALAYSIA

The Ugly Front of "Confrontation"

On 1st October, 1962, agreement was reached to place West Irian under U.N. control in preparation for the transfer of political and administrative control of the Indonesian Government on 1st May, 1963, pending final democratic decision by a referendum which the Indonesian Government solemnly promised to hold in West Irian in 1967. On 8th December the Brunei revolt began. Had it succeeded the machinery which had been used against West Irian could have been turned immediately and effectively and in a favourable political climate to a new "liberation struggle". It was quickly defeated in Brunei and failed to fulfil Azahari's hope of an anti-Malaysia revolt in Sabah and Sarawak. The revolt was first and most strongly supported by the PKI as a focal point of violence against Malaysia, to which they had declared their opposition even before the West Irian issue was settled. An article in the issue of the journal *Harian Rakyat* on 31st August, 1961, under the title of "Apa Itu Malaysia Raya?" set the tone for their own and later Indonesian, propaganda against Malaysia declaring that it is a "neo-colonialist" concept. This policy was adopted officially by the PKI in their conference at the end of 1961.

From Communist sources too were to come the basic arguments against Malaysia. President Soekarno's argument that Malaysia encircles Indonesia is a straight borrowing from the Communist argument of the "capitalist encirclement" of Indonesia as announced by Aidit in 1958.

When the defeat of the opposition to Malaysia before the United Nations Committee on colonialism and in the Singapore referendum was followed by their defeat in Brunei and in the elections in Sabah and December 1962, the Indonesian Government fully backed by the PKI brought external pressure to bear on the peoples of Malaysia in default of an internal rising in the territories of the prospective Malaysia, or of large scale political movements behind which they could operate. Had the Brunei revolt succeeded, the tactics and personnel which had been used against West Irian would have been turned immediately and effectively and in a favourable political climate to a new "liberation struggle". As we have seen, the West Irian volunteers from Malaya were kept in Java until the Brunei failure was certain. During December an Indonesian agent in Singapore who was also a member of the PKI had several meetings, on Azahari's introduction, with Said Zahari, editor of the *Barisan Sosialis* Malay paper, and a strong supporter of Indonesia Raya. He had to influence the discussions within the *Barisan Sosialis* on the action they should take in support of the Brunei revolt, in the direction of a major campaign. He welcomed the policy of *Siaran Partai*, the Malay journal of the Party Ra'ayat to which Said Zahari was the major contributor, as outspokenly in support of Azahari and the Brunei revolt. On December 12th, officials of the *Barisan Sosialis* and Party Ra'ayat met to plan the organisation of volunteers for Brunei, as a counter to the despatch of Malay Police to Brunei by the Federation of Malaya Government. The only public outcome however of these decisions was the setting up on January 16th, 1963, of a Solidarity Committee which consisted of representatives of Party Ra'ayat, the PMU, and the still unregistered *Gerakan Pemuda Melayu Raya* and the poorly attended rally which they organised outside the Hollywood Cinema, Tanjong Katong Road on January 25th and which passed a motion in support of Melayu Raya.

When therefore it was clear that there was no spontaneous or genuine "national rising" but merely the public exposure of the extremist parties and groups which the Indonesians had already penetrated, the Indonesian Government early in 1963 launched under the name of "confrontation", a planned, long-term campaign of political subversion and economic boycott against the territories of Malaysia. Speaking in Jogjakarta on Sunday, January 20th, 1963 to members of the new "Mahakarta" students' regiment, formed to undertake development projects in remote

parts of the Republic, Dr. Subandrio announced the policy of "confrontation" towards Malaysia: "We cannot but adopt a policy of confrontation towards Malaysia because at present they represent themselves as accomplices of neo-colonialist and neo-imperialist forces pursuing a policy hostile towards Indonesia". On Tuesday, January 22nd an official Foreign Ministry spokesman in Djakarta said that Indonesia's policy of "confrontation" towards Malaysia amounted to a "direct offensive". It was being applied in economic and social relations between the two countries but would not be taken into the military sphere. When the spokesman was asked by a Press Agency representative to define the term "confrontation", he replied that, except for military activity, the policy of "confrontation" was the same policy as that used by Indonesia to wrest West New Guinea from the Netherlands.

The policy of active "confrontation", was put into effect in all the Malaysian territories, as a new policy of active subversion, PKI-initiated and apparently PKI-operated, but adopted by the Indonesian Government however reluctantly and whatever the form of political pressure which was used. In the Borneo territories the members of the Clandestine Communist Organisation were called in from Sarawak to Indonesian training camps. Tebedu was attacked in April: the two new Indonesian consular officials in Jesselton began their approach to the Indonesian Associations of Sandakan and Tawau, in Eastern Borneo, where Indonesian immigrant labour was concentrated, to send recruits to Indonesia for training in subversion and sabotage and to begin the accumulation of stockpiles of armaments. In Malaya and Singapore some recruits from the West Irian volunteers of 1962 were brought back to Indonesia to complete training as volunteer subversives against their own country. In February 1963 Ibrahim bin Haji Yaacob issued the following statement through the Antara News Agency: "We have made preparations to overthrow the Tengku's Government in Malaya and to frustrate the Malaysia Plan". He had already told Azahari in July 1962 that after West Irian had been taken over the Indonesian Government would concentrate on Malaysia as a "Duri Dalam Daging—Thorn in the Flesh". From this time there was a policy of calculated subversion, as blatant as, though less efficient than, the policy by which Hitler crushed the spirit, then captured the body of Czechoslovakia, to revert to Hatta's comparison quoted in paragraph 3

Putting in the Teeth to Crush Malaysia

Clearly the higher strategists of "confrontation" in Djakarta thought of Malaysia in two parts. The campaign in Sabah and Sarawak came under army control, while the campaign against Singapore and Peninsula Malaya came under navy control.

The tactics were clear, for Singapore and Malaya:

First, to use the returned West Irian volunteers and the fringe of members of Malay extremist anti-Malaysia elements in PMIP, PMU and Party Ra'ayat as recruits for an Indonesian Fifth Column.

Second, to organise training for them in sabotage and subversion, and to build up a number of encircling front-line bases in the Rhio Islands and Sumatra overlooking Singapore and Malaya on which stores of explosives could accumulate, and from which the attacks could be launched.

Third, to organise bogus commercial shipping companies as his communication links with Singapore and as employment agencies for his agents.

Fourth, to place agents in Singapore and Malaya to penetrate defence secrets to attack public utilities with explosives and to create alarm by sporadic explosions.

Fifth, to prepare for a naval landing in Singapore and Malaya. The agents were urged to join army units stationed near the sea coast, to find suitable landing places, and to think in terms of the capture by political activity of a State which could be built up as an Indonesian "Yenan" in Malaya.

Sixth, to prepare a plan of subversion in Singapore and Malaya both to create present terror and to weaken Singapore and Malaya's power of resistance to a future attack.

Seventh, to encourage Malay political parties in deliberate subversive and repressive anti-Chinese policies, and in activity which would lead to the overthrow of the freely elected Government of Malaysia under the Prime Ministership of Tunku Abdul Rahman in Kuala Lumpur.

Eighth, in the long-term aim, to split Sabah and Sarawak from Malaysia, to bring Singapore and the Federation of Malaya under a common Government subservient to the Soekarno-guided Java-based "Democratic Centralism" of Djakarta. The policy was no

passing expression of petulant pique, but a deliberate long-term plan over many years. Behind this in support of this sustained political warfare would be the army attacks on Sarawak and Sabah, the naval attacks on fishing boats, the stream of scurrilities from Radio Kemam, and the reported variations by President Soekarno on the theme of "crushing" Malaysia.

The machinery of "confrontation" against Singapore and the Federation was operated by Naval Lt. Bambang Partono, the Naval Attache in the Indonesian Consulate-General. The returned West Irian volunteers were the available and trained instruments for the operation of this policy, under the orders of Lt. Partono. But they required further training in methods of sabotage, and further indoctrination against Malaysia. Police supervision was too strict for this to be safe in Singapore and it therefore became necessary for Lt. Partono, already too conspicuous to be a good agent, and the new training to be withdrawn to the conveniently near Rhio Islands. Lt. Partono retained responsibility for recruiting, training, directing and financing the agents, who described themselves as Orang Bambang Partono. At this stage, the West Irian volunteers were instructed in order to avoid identification and police supervision, not to wear their uniforms in Singapore.

Organisation of Confrontation

Soon after the outbreak of the Brunei rebellion, some 40 Indonesians mainly civil servants met in the house of the Resident of the Rhio Islands and under the patronage of Lt-Col Suparman, a PKI leader, and Head of the Naval Department, to study Malaysian developments and to give active encouragement to people in Indonesia, Malaya and Singapore to oppose Malaysia. Early in February Col. Soegih Arto travelled to Tanjung Pinang. During his "unofficial" visit he was nevertheless the house guest of the Resident and later of Lt-Col Suparman. With both he discussed the implementation of "confrontation". He instructed Lt-Col Suparman to recruit into his service boatmen who plied between Rhio Islands and Singapore. These would work with similar boatmen he would recruit in Singapore.

On February 22nd, at a second meeting in Lt-Col Suparman's house in the Naval Headquarters was formed the Pembela Revolusi Kalimantan Utara (Kepulauan Riau)—the Rhio Islands Committee in support of the North Borneo Revolution. The Chairman of the organisation was

Bambang Dharsono, who was a captain of the TNKU (Tentera Nasional Kalimantan Utara)—the North Borneo National Army—who had been appointed to train West Irian volunteers. Similar groups were established on three other Rhio Islands of the Rhio group. The four aims of the group were:

1. to incite the people to support the North Borneo Revolution;
2. to make note of the potential strength of Malayan/British armed forces;
3. to make every effort to foil the formation of Malaysia; and
4. to give immediate report on whatever possible.

Immediately after this meeting eight agents were recruited and given a week's intensive training in unarmed combat (with knives!) and propaganda in preparation for their infiltration into Singapore. Their task they were told was to carry out in Singapore the four tasks of the organisation. In addition, they were to attend and report on public rallies, to recruit members, and to incite anti-Malaysia feeling. He was to set up in Singapore four branches of the organisation, each of six members and responsible for one of the tasks. The leaders of these groups would then move to the Federation of Malaya to form other groups.

The first agents of the eight, Amin Wijaya left Tanjong Pinang early in March for Singapore to report to Col. Soegih Arto on the development of the plans he had discussed with Lt-Col. Suparman, to get information about what action had been taken by the agents. Col. Soegih Arto had promised to recruit and report it to Capt. Dharsono and to begin the formation of revolutionary groups in Singapore from previous contacts. Amin carried bogus letters of introduction and a forged letter of invitation from Col. Soegih Arto and a false Malayan identity card. He was also given a letter from Capt. Dharsono authorising him to carry out underground action in Malaya and Singapore in fulfilment of the four aims of the revolutionary organisation. He travelled from Tanjong Pinang to Pulau Belakang Padang, and from there on March 10th to Singapore where he landed off the Yacht Club. When he was intercepted by some of the Club staff he put his letter of authority in his sock. When it was discovered there, he attempted unsuccessfully to tear it up before the arrival of the police to put him under arrest. The external assault had begun.

On his return to Singapore Col. Soegih Arto gave Lt. Partono the task of recruiting agents in Singapore.

Lt. Partono recruited agents in Singapore for training on Tanjong Sekupang and for directing their operations in Singapore. He gave the finance to an agent to open a coffee-stall at Tanjong Rhu as a rendezvous for those illegally entering or leaving Singapore, and he rented a near-by room for use as a transit centre. His first two recruits were two former fellow "chuchi jaga kreta" from Katong Park.

Before June, six West Irian volunteers had left Singapore, four for Tanjong Pinang on their way to Djakarta. On April 29th, Lt. Partono moved his base Pulau Samboe adjacent to Pulau Belakang Padang, the forward naval post nearest to Singapore and under the control of Tanjong Pinang, and Medan, the main naval centre for Indonesia's northern waters. He served as head of the Korps Komando Operasi under the commercial cover of the Sharikat Nelayan Semenanjung (Peninsula Fishing Company). From his new base Lt. Partono himself visited Singapore and sent his agents to collect information. In May 1963, General Djatikusumo, then Indonesian Ambassador in Kuala Lumpur, came down to the Consulate-General in Singapore to meet those who had agreed to return for further training. He asked for a complete list of the volunteers, thanked those he had seen, and gave to each of them a gratuity of 6,000 rupiahs. Lt. Partono returned to Singapore on 31st May to instruct Noordin to select a further ten ex-West Irian volunteers to go to Indonesia when the first group had returned.

The PMU as Recruiting Agent

Recruiting of trainees in the Federation was carried out from Singapore through the PMU which became the agent of the Indonesian Consulate-General for this purpose. The link was first made through Bong Kahar, President of the Singapore PMU, Vice-President of the PMU Malaya and leader of the PMU Youth Section who had been detained by the Police as an active member of PMU's secret underground organisation, the Tentara Hang Tuah and of ARTIS (Angkatan Revolusi Tentara Islam Singapura) in which he held the rank of "General". The favourable impression he made on the Indonesian Consular officials who attended a rally organised in Singapore by the PMU under his Chairmanship in October 1962 was not forgotten. And in March 1963 he was called to the Indonesian Association to meet Lt. Partono and seven West Irian volunteers including Noordin. Lt. Partono

was interested in the readiness of Bong Kahar and the PMU to organise actively against Malaysia and to find recruits for training for that purpose. At a second meeting Bong Kahar then asked for \$40,000 as expenses and offered to select members of the PMU drawn from all the States of Malaya, for training. On their return they would form PMU Branches and recruit more trainees, so that they would have a force strong enough to begin an uprising. Lt. Partono told him that when the force was strong enough, he would supply arms through the ex-West Irian volunteers.

In May 1963, Bong Kahar travelled to Kelantan with two officials of the Indonesian Consulate-General to attend the 13th Congress of the PMU in Kota Bahru, Kelantan. After the Congress, Bong Kahar told Che Gu Musa, Secretary of the Kelantan Branch of PMU and Assistant Secretary-General of the PMU as a whole, that the PMU could get financial assistance to promote Malay interests by the establishment of a Greater Malaysia including Indonesia, the Philippines and Malaya; and asked him to recruit fifteen "intelligent and physically fit" members of the PMU to go to Indonesia for military and political training. The list of the proposed recruits and their photographs were sent to Lt. Partono. In June before leaving Singapore for a meeting in Kota Bahru of the Executive Committee of the PMU Malaya, Bong Kahar was told by Koesto to impress upon PMU members that "the Indonesian struggle was actually to assist the Malays to seize their native lands and rights from the aliens". The meeting discussed the launching of a Malay National Front, to be inaugurated in the presence of Presidents Soekarno and Macapagal. Bong Kahar told the meeting that Indonesia had agreed to supply arms when the time was opportune for the PMU to stage a revolution. At the meeting, Isa Hussain, the Secretary-General of the PMU, said that the task of the "Ahli Dalam" or Inner Group of the party was to unite the people to destroy Malaysia and form, with their assistance, a Malaysia Raya with the Philippines and Indonesia.

Those attending the meeting then adjourned to another room where each in turn, holding the Koran on their heads with their right hand, and sitting before a table, carrying a kris, a pistol and a rope, took the oath:

"I pledge to be loyal to the cause and will not leak out my secret. If I betray I will be killed with the pistol, I will be stabbed with the kris, or I will be hanged with the rope".

On his return to Singapore on June 18th Bong Kahar again met Lt. Partono on a visit from Pulau Samboe, and was given, without being asked for a receipt, \$35,000 in notes, with a promise of a further \$5,000. The money was quickly spent mainly on personal gifts. In July Bong Kahar visited Malacca to collect the names of volunteers to join the Indonesian guerillas in the Sarawak-Sabah Border. At the Indonesian National Day Party at the Consul-General's house on 17th August, Lt. Partono told Che Gu Musa, the Secretary of the PMU Kelantan to go ahead with recruiting the volunteers for training.

With Malaysia Day approaching, Lt. Partono was in a hurry but it was not till September 5th that ten recruits arrived in Singapore. All were from the Koran oath-bound, strong arm, secret Inner Circle of the PMU. They were persuaded by misleading statements of the purpose of the recruiting, and promises, never fulfilled, that their families would be looked after.

In Singapore they were joined by four others recruited by Bong Kahar from Johore. One recruit who had promised to bring his brother brought, when it was too late to change, a cousin who was "bald-headed, elderly and illiterate" and who himself protested that as an illiterate he could get no benefit from political lectures.

Training Camp at Tanjong Sekupang

On September 8th, they were taken from Singapore in three parties to the newly-established sabotage training area of Tanjong Sekupang on the West of a headland of Pulau Batam, one mile Southwards from Pulau Samboe and from Pulau Belakang Padang, the Indonesian forward naval centre for the Rhio Islands and for the operation of the confrontation policy against Singapore and Malaya. Ten miles from Tanjong Pagar, a motor sampan can reach it in less than an hour. The lights of Singapore are clearly visible from it.

The camp, called the Asrama Tanjong Sekupang, on an unfenced site by the sea formerly used by the Japanese during their occupation of Indonesia, consists of a new large hut with corrugated zinc walls and roof, and a cement floor. Divided into three compartments it serves as sleeping quarters, lecture room and living quarters. There were farmers a short distance away and fisherfolk on an island opposite: but the trainees were not allowed to meet them. On the clearing between the hut and the sea drills and parades took place. Discipline was not strict. Food was poor. They were loaned jungle-green uniforms with black leather combat boots—but all had to be returned before they left the island.

When the thirteen arrived early in September, they found that fourteen former West Irian volunteers recruited through the Party Ra'ayat by Noordin were already in residence. They formed Group A for training, which was more advanced because for them it was a second such course. Group B—the "freshies"—included ten from Kelantan and four from Singapore. The remainder of the thirty-five residents were two resident instructors and five resident cooks. Each group had its Captain or Commodore, who was to be their source of instructions and orders on their return to Singapore. The Commandant of the Camp was Lt. Partono who visited the island five times during the two months of this course.

Military Training

Instruction was military and political with a lecturer for each. Military training consisted of drill and weapon training, judo, jungle trekking and tactical exercises. During the second month of the course, the trainees-in-terror were taught the use of the explosives in sabotage. They took part in a mock landing to the noise of real explosives on a neighbouring island, Pulau Selayang, three miles away where there was a disused cemetery. The trainees were taught, with the aid of diagrams, how to blow bridges, electrical power installations, railway lines, public buildings and water reservoirs. On another day on Pulau Selayang they were divided into five groups for practical experience in using explosives against a railway line, the wall of a house, a bridge, a public building and special targets. They used TNT charges of different weights, what one trainee described as a "long plastic bomb which looked like a piece of bamboo", and an explosive in a ball-shaped container.

Political Training

Political indoctrination was an essential part of the course. Lt. (Dr.) Andar Aziz of the Indonesian Army, referred to as "Pak Aziz", lectured three times a week. He lauded Indonesia because all high Government posts were in Indonesian hands and there were no class distinctions. His stammering Indonesian language was not however easily intelligible to his Malay audience. In subsequent lectures, he said that Malaya and Singapore were once part of an ancient Javanese empire, but were subsequently lost to the British. Tunku Abdul Rahman and Tun Abdul Razak were described as puppets of British imperialism, and Malaya as a land of "gagged ra'ayat". In one lecture he used a map of Malaya to test the trainees' knowledge of roads and rivers—but was disappointed in the

trainees' lack of knowledge, as he had been earlier, at the meagre response to his questions about political parties in Malaya. One of those who heard—and understood—gave a longer report, stating that the lecturer urged them to resort to armed revolution and that Indonesia would assist in supplying weapons and manpower.

On the third day before the end of their course on 15th November, 1963, an Indonesian Army Officer who visited the island, reassured them of Indonesia's moral, political and military support. Lt. Partono, the Commandant, advised them: "Balek dahulu", he said, "aman kan diri, senjata akan di-kirim baharu lah bergerak" (Return first: lie low; arms will be sent; and only then will you move). One trainee quoted Lt. Partono as saying that he would be making arrangements for all the things to be sent to Singapore secretly, someone would then come to give the orders. Lt. Partono addressed the trainees as "Pasokan Kemerdekaan Malaya"—Force to Free Malaya, or *Persatuan Melayu Merdeka*, and treated them as under his command which he claimed to be of three battalion strength. Four lessons were devoted to the importance of penetrating Malaysia's Defence Forces and installations. Lt. Partono also told them to try to join the armed forces and political parties with the aim in both cases of gathering information and facilitating the overthrow of the Government in Kuala Lumpur. Preferably the trainees were told they should try to join the Territorial Army and be stationed near the beaches where their units could be won over to assist in smuggling arms from Indonesia. The sites suggested as landing places were Tanjong Rhu and Pasir Panjang in Singapore, the Straits of Malacca and Pasir Puteh in Kelantan. Meanwhile they should use their time to find how best to destroy objectives such as the radar station, water supplies (no doubt suggested by Singapore's current water rationing) and railway lines.

Specialist Training in Java

At the end of September, a Major Chintok visited the camp with Lt. Partono to select four trainees for a more secret and intensive course at Chibogor, eighteen miles from Bogor. When they arrived at Chibogor, there were already eight ex-West Irian volunteers from Malaya in the camp, including the four referred to earlier who had been sent from Singapore before June and who had been waiting for four months. Among four Indonesians who later joined them, were two who were due to land in Singapore in December 1963 to stiffen the Indonesian

demolition squad, before police arrests frustrated them. The introductory lecture by a Major Bandi consisted mainly of an attack on the position of the Chinese in Malaya, compared to their position in Indonesia.

The political over-tones of the training were clearly spelled out from the beginning. One of the instructors told the trainees that Malays were not independent like Indonesians; they were "birds in a cage, well looked after but not allowed to move about freely". Although sons of the soil, they were third class citizens. It was their duty to fight for their rights. The course was a more detailed and advanced course in guerilla sabotage, teaching the number of men required for different tasks, and the exact position in which to place the explosives. A little economics was taught to underline the importance of cutting lines of communications—e.g., bridges, roads, railways and telephones. They visited a concrete and a steel bridge for practical demonstrations of how and where to place the demolition charge. They had two practical exercises on the blowing up of a small dummy bridge, and in the laying of landmines. After five days of weapon training, an Air Force Officer came to show, from seven aerial photographs of Singapore, the positions of the Radar Station, Paya Lebar Airport, Changi Airport, the Power Station and the Wireless Station. On a map of Malaya, Port Dickson and the Kuala Lumpur Airport were specially marked. On a visit to Bandoeng they visited an arms factory where Sten guns, revolvers, hand grenades and rifles were made. One trainee described it as "three times as big as the biggest Singapore Harbour Board godown", part of it underground. They then visited Djakarta where they visited a military airport, a radar station and a power station; and again the places where explosives should be placed for their demolition was demonstrated to them. Each student had specialist training. One of the trainees was taught security. Another was given the task of preparing posters with the slogan "Anti-Colonialist, anti-imperialist, pro-Maphilindo". A group was sent back to Singapore to survey railway lines.

The special trainees then returned to Tanjong Sekupang. One of the trainees appointed a Company Commander was briefed by Noordin now promoted to be Camp Commander in charge of future trainees, to recruit, on his return to Malaya, a new intake of trainees who would form, on the East Coast of Malaya, a resistance force of Fifth Columnists for the Indonesians. All the trainees returned to Singapore in December 1962. Meanwhile on November 15th, nineteen Malays including eleven from the Coronation Road area in Singapore and led by Party Ra'ayat officials

left Singapore for Tanjong Pinang, after an oath-taking ceremony of dedication to their cause. They were sent on to Medan. On 14th December another group of five Chinese West Irian volunteers, three of whom had served in the Committee of the Chinese Section of Panitia, after difficulty in getting Indonesian authority, left Singapore for Tanjong Pinang. Lt. Partono tried to stop them, because he said that as Chinese they could not be trusted and his organisation would be broken and because they would prove the falsity of his argument to the Malays that only they were oppressed—and by the Chinese. As they had already left Singapore, they were allowed to continue to Tanjong Pinang where they were screened and detained. By the end of the year some fifty subversive saboteurs had been trained and most of them had returned to Singapore and Malaya though not all were ready to explode in spite of the efforts of their instructors.

Communications Link Under Commercial Camouflage

Lt. Partono's next problem was to find a method of smuggling his men about twenty-five in number and explosives into Singapore from the base he was establishing, as well as of breaking his own Government's "confrontation" policy by bringing supplies from Singapore and paying for them by smuggled goods. His method was the one used by the Indonesians since 1946 through the camouflaged commercial company.

The Gerakan Economy Malaya Indonesia (GEMI) was therefore formed by the Indonesian Consulate-General and registered on 29th May, 1963 in the name of Captain Hassan, a resident agent as sole proprietor and managing director. Its nominal purpose was the import of fish from Tanjong Pinang in the Rhio Islands to Singapore, the ships to return from Singapore with general cargo. The real purpose was, however, to provide a communication and transport link between Lt. Partono's Naval Intelligence Centre at Pulau Samboe and Singapore to provide a source of employment for the West Irian volunteers, which would keep them under supervision and available for assignments and to keep a watch on Singapore firms trading with Indonesia. In April, the company bought a Singapore-registered boat, SMF 417. \$6,000 was agreed as its price. Because the boat was Singapore-registered it could not operate in Indonesian waters without an Indonesian permit. By August this had not been granted, in spite of a request from Lt. Partono as "Commandant, Base Intelligence I" to the Resident at Tanjong Pinang, the administrative centre of the Rhio Islands. In September and

October it made one trip in each month taking supplies to Tanjong Sekupang, returning with rubber and fish to Singapore. The first trainees had to travel to Tanjong Sekupang in hired boats. A branch of GEMI was opened in Johore Bahru as a transit and financing centre for those going from the Federation of Malaya to Tanjong Sekupang for training. After the Johore Bahru Branch was registered in August, Capt. Hassan toured the West Coast of Johore between Kukup and Pontian in search of landing places. They found one stretch of fifteen miles where landing was possible at high tide. This was duly reported to officials of the Indonesian Consulate-General at Singapore. The Company closed in October 1963 because of inefficiency and a major loss of funds, though Capt. Hassan continued to work for Partono, now promoted to Captain.

A second company, the Duma Corporation, described as a firm of "Importers, Exporters and Commission Agents" and nominally for trade in fish from Pulau Samboe, was formed by the Consulate-General in July 1963. The firm's smuggling trade with the Rhio Islands led to contact with a firm in Pulau Belakang Padang also run by Capt. Partono and known as C.V. Gurita which wanted a counterpart in Singapore. The manager of the Duma Company helped to form a new company Malaysia Indonesia Corporation (MIC) in October for Capt. Partono to replace GEMI and supplant Capt. Hassan who was warned by Capt. Partono to keep away from the new company. Registered in Singapore on November 1st, 1963, MIC acted as agent in Singapore for C.V. Gurita. It has four directors as an insurance against default. Its initial capital was limited by Capt. Partono to \$30,000. It took over the boat SMF 417. The MIC office in Beach Road became the centre of the Indonesian illegal trade, immigration, subversion and smuggling of arms euphemistically described as "goods" organised by Capt. Partono. It was the meeting place of his agents from Tanjong Sekupang and those resident in Singapore. It was to carry the growing import of explosives in December 1963. All its trade and its immigration of agents were illegal. In November 1963, an unemployed Indonesian (a Singapore citizen by buying a forged identity card in Tanjong Pinang) was sent by a friend to the MIC. Then he was given a loaded camera with ten unexposed negatives and sent to take photographs of the Radar Station in Bukit Timah Road, from angles carefully explained to him. He was told this was being done on the instructions of Capt. Partono. He took ten photographs of the RAF station at Changi, four days later. Other assignments mentioned to him were the RAF Base at Seletar and the Naval Base.

Demolition Agents and their Work

The training at Tanjong Sekupang was aimed at an immediate and urgent objective. Agents had received training in the use of explosives and weapons at the Indonesian Consulate-General in Singapore before it closed down in September. From September onwards the trainees at Tanjong Sekupang had been sent with their kill-kits on Capt. Partono's personal explicit directives for assignments in Singapore. One agent was sent to Singapore on the eve of the delayed Malaysia Day, September 16th, to plant explosives with trip-wires near the Padang so that they would create panic and kill during the celebrations.

In September two of the Singapore trainees were sent to Singapore to blow up Pasir Panjang Power Station. They carried with them, in an air company's carrier bag, twenty pieces of 175 gm TNT. Landing at Jardine steps they took a bus to the Power Station. One argued against carrying out the assignment as they had been cheated into going to Tanjong Sekupang by the promise of a job in Djakarta. They threw the fuses and detonators into the sea, but were afraid to dispose of the explosives in the same way, and went to old Kallang Airport and buried them there. They returned to Tanjong Sekupang the next day and reported in writing to Capt. Partono that they had been unable to carry out their task as they had been chased by the Police, and had then thrown the explosives into the sea. Another group was given by Capt. Partono the assignment of blowing up the Britannia Club. They carried twenty pieces of 25 gm TNT explosives. They looked first at the Union Jack Club and then the Britannia Club, but found the crowds near both clubs too great. They therefore went to Katong Park where one had been a "chuchi jaga kereta" and early the following morning put the explosives under a car. They were "happy" on their return to Tanjong Sekupang to hear on the radio that evening the news of the destruction of the car. There had been two previous explosions destroying the fencing of Katong Park. Another agent was given training in the use of the compass and then sent to Singapore to get the compass bearing of the "Radar Station" opposite Gammons (Malaya). Taking fright he wrote down on a copy of *Berita Harian* any figures he could think of, and returned to give them to Capt. Partono. On November 15th, Capt. Partono detailed two more to go to Singapore to discover whether there were additional marine police or navy precautions. Another two were detailed to plant a bomb on the water mains near the pineapple factory just a few miles out of Johore

Bahru. Their leader was sent on three missions, each time carrying twenty pieces of 200 gm TNT.

When their training was finished they were told to return to Singapore to await instructions. It was the role of Noordin bin Lemon to keep in touch with Capt. Partono while MIC and its agents brought the explosives and stored them in Singapore, some in Noordin's own house near the Chief Justice's house in Nassim Road, some in the grounds of a mosque, some in the house of Masri, who had been Koesto's driver and was now a main actor in the plot.

If explosives are dangerous in the hands of those who know what they are, they are no less dangerous in the hands of innocents. Some were given to a committee member of the Geylang Serai Branch of the Party Ra'ayat. Let him tell his own story:

"From the bag he produced a bundle wrapped in a brown paper. He opened the bundle and I saw a number of articles (round and square) wrapped in transparent plastic. K also produced a "Brylcreem" bottle containing a number of articles, made of cloth with metal caps at the end. They were round like the size of cigarettes but about 1½ inches long. I did not know what the articles were. I asked what the articles were but he said he did not know what they were, then told me that the articles were dangerous. I did not know they were explosives. I have seen guns, bullets, and hand-grenades, but have never seen the articles handed to me by K before. When leaving my house K told me that he will come to take those articles later when he is free."

He stored them on top of an almeirah in the house, until told they were too dangerous to keep in the house. He then buried them in adjacent ground. In November one agent collected explosives for use against Mr. Lee Kuan Yew during his tour of Kampong Chai Chu. He made for the Bukit Timah Railway Station to blow up the railway line, but finding six policemen on patrol, returned to the city. Capt. Partono wanted them exploded merely to show the world there was no peace in Singapore, and not necessarily to kill any one. The agents were told that if they could not achieve their specified objectives they were to leave the explosives where their detonation would create alarm by their indiscriminate damage. The results were the three explosions at Kallang Park and the two lives lost and the car destroyed in Sennet Estate. In December,

Noordin Lemon moved from Tanjong Sekupang to Singapore. It was planned that two Indonesian Police would follow on Capt. Partono's instruction to stiffen the organisation.

From December 8th, the smuggling of explosives increased. A member of the crew of one of the boats which belonged to Capt. Partono's firm of Tojo Gurita, tells his own story:

"In early December 1963 S came alone to Singapore. Y gave him four hand grenades to be delivered to M. I was present when Y gave them to him at Belakang Padang. The next day at about 3.00 a.m. I was instructed by Y to come to Singapore with five sacks of charcoal. He instructed me to deliver the goods to M. Accordingly I left Belakang Padang. On the way I met Y who came to my boat in another boat. He was then alone. He brought with him three Sten guns, four bags of explosives, Sten gun ammunition and about twenty-four hand grenades. On his instruction, I put them in the sacks of charcoal. I arrived at Belakang Mati at about 4.00 a.m. and slept in the boat near the island for the night. At about 8.00 a.m. I came to Singapore. S called for a lorry and on his instruction I loaded the five sacks on the lorry and followed him on the lorry to M's house. M was still not at home and we handed the sacks to his wife. We returned to the boat and S returned to Belakang Padang in his own boat. At about 10.00 p.m., I visited M's house merely to know him and also to get a receipt from him to say that he had received the sacks. He told me that he had seen the sacks and accordingly he gave me a note stating that he had received the five sacks. The next day at about 1.00 p.m., I returned to Belakang Padang and handed the note from M to Y. A week ago I again came to Singapore with scrap rubber and a sack of charcoal. I left Belakang Padang at about 11.00 p.m. On the way I met Y, who came to my boat in another boat. He carried two haver-sacks and a box of detonators. The two haver-sacks contained thirty boxes of explosives and there were about twenty detonators in the box. On his instruction I kept them in the sack of charcoal. I was also instructed to deliver them to M. He then returned to Belakang Padang and I proceeded to Singapore."

On his next trip with detonators this agent was arrested as were most engaged in the swelling conspiracy in Operation "MARA" launched by the Malaysian Police on December 11th. Of those arrested, fourteen were

ex-West Irian volunteers, eleven members of the PMU, five former employees of the Indonesian Consulate-General in Singapore and four Indonesians from the Rhio Islands. Ten other arrests in Singapore brought the total from Singapore to twenty-four. The explosives and arms they had concealed were recovered. In Kampong Amber were found three lots of explosives consisting twenty-four pound packages of Belgian gelatine each together with two-minute Cordtex safety fuse, three Sten guns of British pattern and six full magazines for these plus twenty-five hand-grenades, fully primed. Another red plastic bag containing twenty-three pounds of Belgian gelignite, primed ready for use was found in the hedge behind a compound house near the residence of the Chief Justice at Nassim Road. An agent led the Police to the spot where six grenades had been buried in two holes in the ground behind his house. Another agent led Police to a bush behind his residence off Jalan Eunus where he had buried an earthen jar containing twenty-five hand-grenades, three Sten guns and six Sten magazines loaded with 128 rounds of 9 mm ammunition. Two agents were arrested on December 18th on their arrival in Singapore on Capt. Partono's instructions to find as to what extent the arrests had disrupted his intelligence organisation. As a consequence of these arrests, a sailing vessel was stopped at South Quay at 3.00 p.m. on 14th December, 1963, and two Indonesians were arrested. A cigarette case containing twenty detonators and two documents containing instructions with diagrams on the use of explosives for sabotage were recovered. They had arrived earlier that day to deliver the detonators and documents to an agent and were on their way back after discovering his arrest.

Political Penetration and Subversive Groups

Indonesian policy was not only to attack from outside but to create actively subversive, violent, communal clandestine organisations within Malaysia. Two more such groups were formed in 1963. The Angkatan Revolusi Melayu Raya was formed in Singapore early in 1963 at the Party Ra'ayat headquarters, to plan armed insurrection on or about August 31st. Its symbol included the letters MIP—Malaya, Indonesia, Philippines and its motto was Tetap Tegoh Tahan (Unshakable, Firm and Endurable). Arms would be supplied by the Indonesian Consulate-General to be stored in fishing kelongs. Others would be captured from local police and military arsenals. Funds were allotted by

the Indonesian Government through the Embassy in Kuala Lumpur. Officials of PMIP, Party Ra'ayat and the Labour Party of Malaya were involved. Contact was maintained with Ibrahim bin Haji Yaacob and with A.M. Azahari. Following Communist tactics, bases were planned in the Pahang jungle. Tunku Abdul Rahman and Tun Abdul Razak were on their assassination list. South Thailand was to be included in the boundaries of their State. The group maintained contact with Capt. Partono and the West Irian volunteers. There was in 1963 an application for the registration of a body to be known as Gerakan Pemuda Melayu Raya, but it was refused. In September 1963, on Capt. Partono's instructions Bong Kahar of the PMU was trying to form a "Pergerakan Nasional" (National Movement), a Malay extremist Fifth Column group which would eventually take over the Government of Singapore and the Federation of Malaya—they made no reference to Malaysia or to Sabah or Sarawak.

Extremist Communal Propaganda

The basis of the Indonesia appeal to Malays was starkly communal. Apart from the inherent power of such an appeal, it aimed to split multi-racial Malaysia at its very core. As early as May 1963 Major-General Djatikusumo was openly visiting Malays of Indonesian origin in the Federation spreading communal anti-Chinese propaganda, alleging that only Indonesia could save the Malays from the Chinese, and pointing with pride to the passive attitude of the Indonesian authorities during the anti-Chinese rioting in Indonesia. It was the line of propaganda at all the subversive training camps in Indonesia. And it was the policy which gave every access to the communalist political parties. The line was taken by the Peninsula Malayan Union which had been closely linked with the Hang Tuah—ARTIS group in Singapore, and which was in close touch with officials of the Indonesian consulates in Singapore and Kuala Lumpur. One PMU leaflet alleged that the Chinese had drawn up a long-term political plan to make Singapore a "small Chinese country". Another compared Malays to "horrible fools" like "a baby waiting for the non-Muslim people to offer us sweets". A third said: "Our nationalism symbolises our love for the country with a firm determination to re-unite all our 140 million people who are scattered all over the Malay Archipelago which spreads from Asia to Australia, including Singapore".

Intensification of Intrusions into Singapore and Malaya

The attempts at creating terror in Singapore, crippling its public utilities and suborning its politics were only the immediate phase in the long-term strategy of mounting purpose. On July 16th, 1963, Subjarwo, the Second Deputy Foreign Minister during a visit to Singapore told a small group at the Indonesian Association that if Soekarno and Subandrio did not go to the Manila Conference action would be taken on August 2nd. "We've got everything in hand", he said, "The Navy, the Air Force and the Army were standing ready and our new fast patrol boats are already in the waters around Singapore and Malaya. General Djatikusumo, our Ambassador in Kuala Lumpur is working there. He's a tough man and is handling things for us; but he may not succeed. You must all be ready to go back to Indonesia at short notice."

In November, one of Capt. Partono's intelligence agents came to Singapore with instructions to recruit agents in the Naval Base, and to bring back copies of the Singapore and Johore Bahru telephone directories. In November Capt. Partono wrote to Bong Kahar through one of his agents in Singapore asking for details of "trooping zones" i.e., landing zones for troops and to ask what further funds he needed. Bong Kahar in his reply, named one in Kelantan, and asked for \$75,000 which he was later told would be provided at least in part. In December, Bong Kahar was approached by one of Capt. Partono's agents to select two young men from each State of Malaya for training in Indonesia in map reading and radio transmission. He added that when these men had been trained, the Indonesian Government would provide two transmitters to Malaya and Singapore for radio communication with Indonesia.

In September 1963, the KMM had declared in Indonesia a "Republic of Malaya" of which Shamsuddin, PKI cadre of 1959 and a Sergeant in the Indonesian Army, was declared Vice-President. From this group with which the Party Ra'ayat is deeply involved comes the new phase of explosions in the name of the so-called "Republic of Malaya"—and its so-called "National Army" (Tentera Nasional Republic Malaya (TNRM))—parallel to the tactic used in support of Azahari and the deployment of a so-called TNKU (Tentera Nasional Kalimantan Utara). They are moving from Tanjong Balai on Bantam Island where sabotage control now appears to lie. With the growing number of troops on the islands off Singapore, it may well be thought better that they should not be seen by trainees returning to Singapore and that therefore Tanjong

Sekupang is no longer suitable for their training. Lt. Partono went to Djakarta and has returned to the Rhio Islands.

In March, 1963 "Brigadier-General" Ruslan Shariff of Party Ra'ayat and APERMA was arrested after his landing at Tuas to organise cells for APERMA in Singapore. Three Indonesian members of an "Under-water demolition team" accompanied him. In this new phase the groups are professional regulars and not haphazardly recruited and hastily trained, though political enthusiastic amateurs. They included instructors to train agents in Singapore and wireless operators to keep the Indonesian Army authorities informed of opportunities for intervention.

Ruslan Shariff brought information which allowed the capture of the new stores of sabotage material brought in to replace those captured by the Singapore Police in December. Near Scudai, three Browning pistols, 193 rounds of 9 mm ammunition, 252 feet of safety fuse, 500 feet of detonator cords, and 53 x 1 lb slabs of TNT were found. On the Wing Loon Estate near the South West coast of Singapore four Sten guns with 689 rounds of ammunition, two Luger pistols and 47 x 1 lb blocks of TNT were found among other demolition equipment.

SARAWAK AND SABAH

It was in April 1963 that major Indonesian subversive activity began in Sarawak and Sabah. The PKI whose policy had always independently been against Malaysia, had been in touch with the Sarawak Clandestine Communist Party (CCO) since February 1963 about the transfer of subversive training to Indonesian territory. Tebedu village was attacked on April 12th. Indonesian Consular officers in Jesselton for the first time approached Indonesian sympathisers in Sabah with invitations to undergo military and political training in Indonesia. On 30th April, Radio Pontianak issued an official communique by Col. Sudarno of Military Area XII with its Headquarters at Pontianak on the first raid to be the topic of an official communique, the attack on Gumbang on 23rd April by so-called TNKU guerillas. In the same month 20,000 rupiahs were seized in the house of a member near Kuching, along with notes on guerilla warfare in Cuba and China. The Publicity Officer in the Indonesian Consulate in Jesselton who returned from Djakarta in April reported that while in Djakarta he had discussed military training with a high-ranking military officer and recruiting began in May. In May the decision was taken to carry out CCO training in Indonesia rather than in

Sarawak, and the CCO members first crossed over to Indonesia for training in significant numbers. This followed the decision of the Sarawak Government to recall shot-guns licensed to non-natives, and allowed time for the completion of the training before Malaysia Day. Indonesian agents arrived in Sabah to foster anti-Malaysia feelings with the National Pasok Momogun Organisation (National True Sons of the Soil Association). In June all CCO training in Sarawak was suspended while their members went to Indonesia for training. Indonesian Ibans were instructed to receive and look after them until they were met by members of the PKI. By July over 750 had already crossed to Indonesia. General Nasution in July visited the training centres of the so-called TNKU in North Kalimantan.

While the CCO was the instrument of subjection through subversion in Sarawak, the instrument in Sabah was the Indonesian Consulate working on the 25,000 Indonesian labourers employed there. The prime agent being the Vice-Consul, Major Moenardjo who received his instructions direct from Col. Soegih Arto in Singapore, and used agents such as the recently surrendered Sunarto of the "Sabah People's Rebellion Front". Recruitment in Sabah for trainees to go to Djakarta began in May 1963. In June, Major Moenardjo recruited two Sabah citizens for military training in Indonesia, though two others whom he approached were arrested by the Sabah police soon after. Only Indonesians under 30 were given permits to return to Indonesia and they were designated for military training. His staff began recording anti-Malaysia speeches in different dialects for use by Azahari over radio. Photographs were taken of Kota Belud as a military centre. Major Moenardjo discussed with officials of the Indonesian Association in Sandakan and Tawau, the import of arms from Tarakan and the fomenting of a rising (with tactics similar to those used in Brunei) during August, using the Prophet Mohamed's Birthday and Indonesia Day to attract crowds culminating in an attack on key points on 31st August. In the face of these activities, Major Moenardjo and Mr. Bambang Sumali, the two Vice-Consuls, on July 26th were asked by the North Borneo Government to leave, the Consul asserting his ignorance of their activities. The two Vice-Consuls reported to the Military and Naval Attaches and Koesto in the Indonesian Consulate-General during their five days in Singapore from July 26th to August 1st.

It is not proposed to repeat in this paper the lurid details of armed Indonesian intrusions to Sarawak and Sabah in which both regular

Indonesian troops as well as irregular "volunteers" have taken part, because these have been fully publicised in the press, together with the events leading to Soekarno's declaration of the "ceasefire" under which armed Indonesian intrusions have continued to take place, hand in hand with atrocities upon Malaysian fishermen in the Straits of Malacca.

CONCLUSIONS

It is very clear that the following conclusions stand out clearly from the details given in this paper:

- (1) Indonesian Expansionism as a successor to Western Imperialism and Colonialism is a basic tenet of Soekarno's national policy right from the beginning.
- (2) Indonesia's "confrontation" policy against Malaysia is the natural result of the above long-term Indonesian policy and not the result of the formation of Malaysia which is only an excuse made use of by Indonesia to launch her present campaign of aggression.
- (3) In addition to the political, economic and cultural aspects of Indonesia's "confrontation" policy, there are also its military and subversive aspects.
- (4) The military aspect lies in military intrusions into Sarawak and Sabah, as well as attempts to land and infiltrate military groups into Singapore and the Peninsula hand in hand with the setting up of the Fifth Column to assist such landings and to establish pockets of military intruders in the country.
- (5) The subversive aspect lies in penetrating local political and other organisations and to subvert them into becoming traitors to their country and Indonesian agents and Fifth Columnists for the purpose of overthrowing the present Government in Malaysia and replacing it by a pro-Indonesian Government that will accept Indonesian orders.
- (6) An important task of these agents is to sabotage and destroy important installations and public utilities like power stations, bridges, military installations, etc., in order to disrupt the economic life and administration as well as the defence of the country and cause chaos and disorder.
- (7) Failing to cause major sabotage as a result of effective preventive measures by Government, they hope to be able to

carry out minor sabotage activities, such as are now taking place in Singapore and have already killed four people, in order to cause alarm and despondency among the people as part and parcel of their psychological warfare campaign.

- (8) The number of these Indonesian agents and extremist local supporters is small, but they are being intensively backed up by Indonesia with money, arms and explosives.

Indonesia-Malaysia Bilateral Relations

JUSUF WANANDI

INTRODUCTION

The purpose of this paper is to assess the relationship that has developed between Indonesia and Malaysia since the termination of Indonesia's confrontation against Malaysia (and Singapore) in 1966. The question to ask is whether over the past two decades the objectives of normalising the relations have been achieved. If the answer is positive, the subsequent question is what should be the objectives of promoting the relationship over the coming years.

Bilateral relations between Indonesia and Malaysia is often referred to in both countries as being of a "special" nature, because it is perceived to be based on Malay ethnicity and Islam in addition to geographic proximity. However, such perception should not be taken for granted and it is necessary to examine whether those perceptions are correct and what the consequences would be for the bilateral relationship if the above assumptions are not valid.

In an effort to enhance the two countries' understanding of each other, it should also be useful to compare their experiences in economic and political development. This effort appears to be necessitated by the

changing environment in both countries, particularly as the younger generation takes over the national leadership in the respective countries. This new generation, unlike the incumbent leaders who have nurtured the existing close relationship, may not have the strong emotional motives to support such a close bilateral relationship.

SIMILARITIES AND DIFFERENCES BETWEEN INDONESIA AND MALAYSIA

Indonesia and Malaysia are generally perceived in both countries as two similar countries and peoples and are therefore expected to have similar views on various issues and developments. In fact, they are two sovereign countries that consequently make decisions primarily in accordance with their own national interests. Nonetheless, a thorough examination would reveal that there exist important differences as well as similarities between the two countries.

Similarities

First, history reveals that both peoples not only have the same ethnic and common geographic origins, but also have had similar experiences with and have been affected by influences from Hindu, Buddhist, Islamic and, later, European cultures. With the advent of colonialism both countries' histories took their respective course until both gained their respective independence in the middle of the 20th century. Following the difficult years of confrontation, the two countries finally came to their present close co-operation, bilaterally as well as within the framework of ASEAN.

Efforts to develop close ties between the two countries at the end of World War II led by some leaders in Indonesia who were involved in the Committee for the Preparation of Indonesian independence, Mohammad Hatta among others, to suggesting that independent Indonesia should exclude West Irian but should include Malaya and Singapore. There was a plan for Soekarno and Hatta to discuss the matter with Malayan leaders on their way back from their meeting with the Japanese Commander-in-Chief for South-East Asia in Dalat (Vietnam). But history took a different course, meeting with the Malayan leaders did not take place, and soon Indonesia proclaimed its independence on August 17, 1945, without including Malaya and Singapore.

While it is important to understand the close ties in the past — which also reveal differences — it is more important to look into the future as the two countries are bound to continue to be close neighbours facing common threats and as such need to formulate a common strategy, either bilaterally or in the ASEAN framework, in order to maintain peace and stability in South-East Asia.

Both, being developing countries, will have a role to play in developing economic co-operation with the industrialised countries and among the developing countries themselves. At the present stage of development, similarities of interest will easily develop into closer co-operation within the framework of ASEAN economic co-operation, and in developing co-operation with the industrialised countries in the Asia Pacific region.

The two countries also exhibit similar national and social dynamics. Nationalism, for example, is an important factor in their domestic political developments. Islam is another important factor of social dynamics for both with different impacts and consequences on the two societies. Indonesia and Malaysia also face similar problems of economic development such as on the questions of equity, modernisation and internationalisation, some of which have been dealt with in a similar fashion while others have been solved differently.

Differences

Besides similarities, there are also differences, even great differences, between Indonesia and Malaysia. In certain cases the two countries have adopted different solutions to similar problems. This should not be surprising since both are sovereign countries that have the right to adopt their own policies. This certainly does not mean that the two countries have not been influenced by the similar situations in which they are in but ultimately history, political system, social development and government leadership determine their individual policy choices.

An objective difference between the two countries is their size: Indonesia has a population of over 170 million while Malaysia only has 17 million. There is also a great difference in the diversity of the two nations. Indonesia is by far more diverse, but differences seem to be more deeply felt in Malaysia.

Another difference is that in the level of economic development. Malaysia already has a per capita GNP of over US\$ 2,000 while Indonesia's is still about US\$ 600. Although Indonesia has no less

potentials, particularly in natural resources, it is likely that owing to its size it will remain behind Malaysia for several decades to come.

Differences in colonial history and modern nationalism have also brought about firstly, differences in national ideology. "Unity in diversity" is the essence of Indonesia's Pancasila, whereas Malaysia stresses on Malay primacy in its "rukun negara."

Furthermore, ideological differences are also reflected in both countries' political systems. In Indonesia, party membership and objectives do not relate to racial or ethnic background, whereas in Malaysia the biggest and strongest party, UMNO, represents only the Malays, while the MCA, Gerakan and the DAP are basically Chinese and the MIC Indian.

Barisan Nasional has been set up to offset racial and ethnic differences that characterise the Malaysian party system. However, Barisan Nasional has not as yet functioned effectively in counterbalancing racial differences in the party system, largely because the necessary confidence among the leadership of the various parties is still lacking.

In Indonesia it is the Armed Forces (ABRI) that plays a prominent political role, because the existing party system has never been able to overcome personal or primordial motives, be it religion or ethnicity or regional sentiments. Therefore, the Indonesian political parties have not been able to organise and develop themselves into modern political parties, except the PKI (Indonesian Communist Party) until it was banned following the 1965 attempted coup. Golkar, which is now the biggest party, still shares power with ABRI and KORPRI (the bureaucracy). Indonesia has overcome problems stemming from ideologies like communism and religion because history has taught the nation to reject political ideologies other than Pancasila. The other ideologies are seen to cause disunity and instability.

Islam, being the religion of 85 per cent of the Indonesian population, has undoubtedly played an important role in Indonesia's political history, but it also has motivated certain groups to strive for Islam to become the national ideology. Attempts were even made through armed rebellion as was the case with the DI/TII insurgencies between 1947 and 1964 in West Java and South Sulawesi, as well as through constitutional and political actions as in the Constituent Assembly of 1958-59 and in the Provisional People's Consultative Assembly during the 1966-68 sessions. These attempts failed because the majority of the Indonesian

people rejected an Islamic state. In fact, national consensus can only be allied around Pancasila which dictates that Indonesia is neither a secular nor a religious state, but one where religious beliefs are highly valued.

Most Indonesian moslems now see *dakwah* and other social and cultural activities, rather than political activities, as their main mission. New ideas have also developed young Moslem thinkers. They encompass the view that Islam is not a political but a cultural phenomenon, and that accepting Pancasila as the foundation and ideology of the Indonesian state is necessary to maintain national unity (Abdurrahman Wahid). Others see their engagement in socio-political endeavours with the aim of promoting democracy, human rights and the rule of law without the need for an Islam-based party, which is seen as an inheritance of Dutch colonialism. (Nurcholish Madjid and such young Muhammadiyah leaders as Amin Rais). There are also young Islamic thinkers who prefer to strive for the fulfilment of basic human needs of the poor people who are mostly moslems (Adi Sasono).

Although no more than 50 per cent of Malaysia's population are Moslems, Islam is also an important political and social factor since it is the religion of the politically dominant Malays. It is the official state religion.

The problem for UMNO today is how to incorporate Islam which has been adopted by the competing Partai Islam as its sole ideology and objective. Now UMNO faces the challenge of combining nationalism and development with Islam. Indonesia went through a similar development and has reached a consensus by adopting Pancasila, in which belief in the one God constitutes the first principle, and by maintaining a ministry for religious affairs to implement that principle. The development of new ideas by Islamic scholars and leaders in Indonesia, in which Islam is seen as a cultural phenomenon, or as an idea that aims at democracy and human rights, or as one that motivates endeavours to meet people's basic human needs, indicates that efforts to combine Islam with nationalism and development are continuously taking place.

In Malaysia the importance of racial identity in political development is such that political parties are based on it. However, Malaysia will face the problem of how to go beyond racial group interest and identity in the future. Malaysia will always face the problems of national unity if racial identity continues to be given such a prominent place in the political system. As a result of economic development, society may become more

complex and the younger generation may demand for a more open and participating political system based on equality and common goals and they might no longer see the validity of a racially based political system. Political development in Malaysia appears to require the Chinese and Indians to become Malaysians in the first place while maintaining some of their cultural values and identities which can enrich Malaysia. The Malays should also have the courage to share power with the Malaysian, Chinese and Indians, but essentially it is first of all the minorities who have to show loyalty to the country and nation. In the long-run the objective of nation-building should be achieved through a racially mixed education. However, the more immediate problem is the development of mutual confidence among leaders of the three most important ethnic groups. The Barisan Nasional leadership should be made effective to serve as an inter-ethnic deliberation forum to reach a consensus on problems and sensitive issues concerning their respective racial group.

In Indonesia, national unity also was a major problem throughout the first twenty years of turmoil after independence. Nevertheless it remains an important task to consolidate the achieved unity by paying greater attention to equitable distribution of development in general and to involving all regions, particularly the eastern part of the country. Problems concerning the Melanesian minority in Irian Jaya and East Timor certainly remain to be solved, but this is mainly a matter of time.

In the future, Indonesia's most important problem in political development will consist of how to maintain a harmonious relationship between the civilian and ABRI younger generations as the country faces the demand for a more open political system. Acceptance of ABRI's continued political role will depend upon ABRI's capability to adapt to the new realities that continue to unfold in the process of political, economic and social developments. So far, ABRI has proved that it is capable to do so. For example, in the 1987 General Elections ABRI adopted an equidistant policy with respect to all contesting political organisations, and gained respect and popularity for having behaved justly and impartially.

In matters concerning succession of the national leadership Malaysia is ahead of Indonesia. Malaysia has had four Prime Ministers in a row without any disturbances. In the case of Indonesia the 1965-67 process of change from President Soekarno to President Soeharto was a traumatic one. It is this trauma that has made the Indonesians become more prudent and perhaps also more cautious in matters concerning political

succession. They are no longer willing to risk national unity and development with another traumatic succession. Neither are they willing to disrupt the system and the institutions that have been developed under the New Order, as every important social group has a stake in the existing system and its achievements. Leadership in all fields is already being transferred to the younger generation, leaving generational change in the national leadership (presidency) to be the only remaining one. Therefore, it is expected that the succession will take place peacefully and in an orderly fashion. However, everybody will be satisfied only when a smooth transition has actually taken place.

In view of the dominance of the Malays in politics, their unity is of great importance, and therefore, the split in UMNO that has unfolded since 1987, has caused some concern, including in Indonesia. However, the split appears to be a natural consequence of the party's growth: While in the beginning UMNO was a elitist party where its leaders were well acquainted with each other, it has grown over the years into a large party and has undergone a democratisation process. This has led to greater participation by a large number of leaders.

INDONESIA-MALAYSIA CO-OPERATION IN THE FUTURE

Economic Co-operation

Provided that there is sufficient commitment in both Indonesia and Malaysia to use whatever opportunities there are to strengthen their bilateral ties, co-operation could always be improved in trade and industry. Trade has developed only very slowly (about US \$ 200 million in 1987 both ways). This requires further studies to examine new opportunities and new venues including the dismantling of existing barriers for mutual benefit. Being producers of the same commodities (tin, rubber, cocoa, oil, LNG and wood), both countries tend to compete in the world market, in fact, both should join hands and develop a common marketing strategy for those commodities, processed raw materials and manufactured products, with a view to jointly penetrating world markets.

In industry, complementarity could be developed further. To do so, both should be willing to lift the artificial barriers and to design market-conforming incentives. The latter could be done by encouraging investors from both countries to set up joint ventures. In tourism, the

governments of the two countries have agreed to promote bilateral co-operation, but a lot remains to be done to jointly exploit the available opportunities. Those various areas for co-operation, especially in world market penetration, could be promoted bilaterally or within the ASEAN framework. However, it is important that a realistic calculation be made before a joint project is launched.

Co-operation in Technology, Education, Language Research and Culture

Although co-operation has been fostered in the area of language, education and culture, it appears that the implementation has been too narrowly focused and very low keyed. Technology is one area of co-operation that remains to be developed. The possibility of co-operation in high technology could be explored. Arrangements for complementary and mutually beneficial co-operation in aviation, telecommunication and electronics also could be jointly considered.

Co-operation in education started as early as in 1967, right after confrontation ended, with Indonesian teachers and lecturers going to Malaysia to teach, and Malaysian students coming to Indonesia to study. But the number of Malaysian students studying in Indonesia, and the number of Indonesian students studying in Malaysia are hardly significant as compared to those studying in western countries, particularly in the United States and Australia.

As regards co-operation in language development the Joint Commission for Language Development has undoubtedly been valuable. It appears, however, that activities will need to be increased to offset the ever widening gap. It is also felt that too little has been done in cultural co-operation. Cultural relations are largely taken for granted, perhaps because of the perceived strong cultural affinity that exists. In fact, cultural affinities should not be over-emphasised since the two cultures are quite different in the sense that the Indonesian culture comprises much greater diversities. Consequently, it is important that cultural co-operation be increased. Media exchange could play an important role in this mutual endeavour. This could also enhance mutual understanding among the people and the leaders. A regular and frequent exchange of visits among both countries' journalists may also rectify the deficiency in both countries' news coverage about each other that relies heavily on international news agencies.

Social and Political Co-operation

A study of each other's political development should be undertaken to compare both countries' political systems. In fact, the two countries can learn from each other on the ways their political systems respond to challenges facing them. For, in the last instance, Indonesia and Malaysia are faced with similar challenges, stemming from rapid changes brought about by the successful economic development, by the rapidly growing number of the educated youth and by the inevitable exposure of both societies to the international world. It is due to those developments that there has been a growing pressure from the younger generation in both countries for a more open political system. The challenges facing both countries' governing elites in the coming years will essentially consist of how to continuously strike a proper balance between stability and political development.

Relations between Barisan Nasional and Golkar and the two other political parties in Indonesia should be increased. Their leaders should meet more regularly through exchanges of visits, regular meetings, and through more frequent consultations in the various international fora such as the Asian Parliamentary Union and the International Parliamentary Union.

Indonesia and Malaysia could also develop closer co-operation, bilaterally or within the framework of ASEAN, in the implementation of their foreign policy, in which similarities are numerous. Dialogues between both countries' diplomats and officials that have frequently taken place, could be intensified so as to involve officials in charge of economic affairs who have met each other less frequently. The two countries could improve co-ordination in their international economic policies in relations between ASEAN and the industrialised countries.

Those policy dialogues should be well prepared and it is important that differences between the two systems be taken into account. It should be well understood, for example, that cabinet ministers in Malaysia are politicians who enjoy solid political support within the party and among the people in their respective constituencies and that consequently they are not necessarily experts in the affairs of their ministries, but that they can presumably rely on the expertise of their respective deputy minister or the permanent secretary. In the case of Indonesia, her economic ministers are mostly technocrats.

Defence and Security Co-operation

Initially confined to the Joint Border Committee (JBC) to deal with communist insurgents in the Sabah and Sarawak border areas, co-operation in the defence and security realm between the two countries has been successful and fairly well developed.

Defence and security co-operation now includes intelligence exchange, joint exercises, exchanges of officers to attend courses in military educational institutions, exchanges of information in arms acquisition and a limited arrangement on the complementarity of both countries' arms industry. Co-operation could also be promoted in the specific field of arms procurement or in arms industry. Co-operation in procurement could be developed further with the objective of increasing efficiency. A triangular defence and security co-operation between Indonesia, Malaysia and Singapore should be considered in view to guarding the SLOCs of the three countries.

Malaysia's relations with ABRI (Indonesian Armed Forces) and the Indonesian Department of Defence and Security should take into account ABRI's role in socio-political matters. This implies that relations with ABRI should not be confined to defence and security matters only, but should also include social and political matters.

CONCLUDING REMARKS

It is obvious from the above analysis, that while history and geopolitics have indeed brought Indonesia and Malaysia to their present close relationship, the relationship should not be taken for granted. This relationship is strategically important as the two countries share the same perception of threat and pursue parallel foreign policies. But the real obstacles that exist in the relationship should also be recognised and ways to overcome them should be sought. Differences between two sovereign countries such as Indonesia and Malaysia will always exist however close they may be. Efforts should be made to improve understanding of the differences, and to overcome them swiftly whenever those differences begin to affect the relationship. Perceptions and accepted notions of the great similarities between the two should be continuously re-examined so as not to be overtaken by developments and to lose thus their relevance to become mere myths.

ASEAN is important to the relationship between Indonesia and Malaysia, and together with Singapore, they should become the

spearhead of the regional association. The co-operation between the three countries will very much determine the course that ASEAN will take in the future as well as the accepted modes of co-operation. It is also important for Indonesia and Malaysia to co-operate in the various international fora, so as to defend the interests of ASEAN, the South-East Asian region, and the interests of other developing countries. This is the more so as international relations are undergoing important and rapid changes.

Indonesia-Malaysia bilateral relations are also important for both to learn from each other's experiences in the handling of domestic political matters and on the changes that have taken place in both societies. This could certainly contribute to the development of the two countries and peoples.

The Rumpun Concept in Malaysia-Indonesia Relations**

FIRDAUS HAJI ABDULLAH

INTRODUCTION

The purpose of this paper is to take stock of Malaysia-Indonesia bilateral relations, to identify various issues involved and to make an in-depth analysis on two of the issues. Ideally, all the significant issues in the relationship should be analysed in great depth, both for academic interests as well as for practical purposes in an attempt to find ways and means of enhancing productive relationship, mutually rewarding, between the two neighbouring countries. However, due to time constraints, this paper will focus only on two issues for thorough analysis and other relevant issues will be discussed in more general terms; but the

* Division of Public Administration, Faculty of Economics and Administration, University of Malaya. In 1992, he was Visiting Research Fellow, Japan Institute of International Affairs, Tokyo. He obtained his Ph.D. in International Relations, University of Columbia, USA.

** This article is the first part of "Issues in Malaysia-Indonesia Relations," paper prescribed at the ASEAN Fellowship Seminar, Japan Institute of International Affairs, held in Tokyo, Japan, 20 August 1992. The second part, which deals with the "Phenomenon of Illegal Immigrants", is also published in this second Quarter Issue of the Indonesian Quarterly.

writer hopes this will lay the foundation for a long-term and more comprehensive study of the subject.

There are several factors one can enumerate to underscore the significance of Malaysia-Indonesia relationship. Besides the geographical proximity, sharing land and sea borders for thousands and thousands of miles, both countries are populated by people who share a high degree of cultural and ethnic similarities. The official languages of both countries are almost identical. Islam is the official religion of Malaysia and more than half of its population are Muslims. Although Indonesia does not have an "official religion", almost 90 per cent of its population are Muslims. Both countries also share almost similar historical experiences. Prior to the advance of Western colonialism and during the Second World War, the Malay Peninsula and certain parts of the present Indonesian territories came under the same politico-administrative unit. Indonesia and Malaysia share the longest common border compared to that of any other two ASEAN states. Part of this common border lies in the Straits of Malacca reputed to be one of the busiest waterways in the world through which more than 75 per cent of Japanese crude oil imports pass.

In spite of, or perhaps due to, those similarities, the relationship between the two countries have been marked by "love-hate" affairs, oscillating between conflict and cooperation. Generally, each perceives the other with mixed feelings, as one scholar puts it: "... they share pride of their common Malay heritage, yet at the same time there are mutual suspicions: admiration tinged with apprehension on the Malay side, disdain spiced with both envy and contempt on the Indonesia."¹ Throughout history, both during recent years and over the preceding centuries, the mixed feelings and the suspicions erupted into open belligerency for certain duration to be followed by cordial and cooperative relations. When the late President Soekarno opposed the formation of Malaysia (the merging of the then Federation of Malaya, two Northern Borneo territories of Malaya, two Northern Borneo territories and the island of Singapore into a single nation-state) and launched his policy of *konfrontasi*, Indonesia and Malaysia entered a belligerent phase and each was trying to garner the support and sympathy from other neighbouring countries and thereby threatened the stability of the whole region. When *konfrontasi* ended (1966) and the relationship between the two states return to a "friendly" and "cooperative" phase they joined together with other neighbouring countries (namely, the Philippines, Singapore and Thailand) to form the Association of

Southeast Asian Nations (ASEAN). After more than twenty-five years of existence ASEAN is now reputed as "one of the great success stories with regard to regionalism in the post-World War II era."

But it has been generally perceived, although it is debatable that the "viability" of ASEAN, to a large extent, hinges upon Indonesia-Malaysia relationship.² And it has been argued that the formation of ASEAN, was *inter alia*, prompted by the efforts to find a solution to *konfrontasi*, which means to bring Indonesia-Malaysia relationship back to normalcy and to bring stability to a wider Southeast Asian region. Indeed during the first two decades of ASEAN's existence — despite occasional minor irritants — Indonesia-Malaysia cordiality and the growing strength of ASEAN, it can be argued, have mutually reinforced each other. ASEAN has created an atmosphere such that it is more conducive to bilateral relationship. And, in turn, such bilateral relationship help to enhance the sense of solidarity within ASEAN.

In recent years, however, there has been a general perception that there are some latent problems in the relationship.³ It is not as cordial as it has been during the period between the late 1960s and mid-1980s for various real and perceived reasons that need to be identified. The influx of "illegal immigrants" from Indonesia to Malaysia has put governments of both states in a state of dilemma and embarrassment. The notion of being *serumpun* (from the same ethnic stock) has been questioned and to certain quarters has become a moot point. The implementation (or the lack of implementation) of certain agreements signed between the two states has caused some "latent resentments" or even indirectly open unpleasant accusations.⁴ Exclusive territorial claims over certain islands has also emerged as a contending issue between the two. There have been suggestions that new idioms⁵ and new dimension⁶ in the relationship between the two countries should now be explored.

Thus from scholarly and academic point of views, there is also a need for new insight and understanding of the new mood and pattern of relationship between the two states. The possible range and scope of the study, in turn of timespan, issues and theoretical concerns, is obviously very wide. However, this paper primarily focuses on the issue of the changing perception of the *serumpun* concept and general relationship.

BRIEF HISTORY AND THE CHANGING CONCEPT OF *SERUMPUN*

Indonesia and Malaysia are new nation states in the modern sense. The former declared her independence on August 17, 1945 and the latter

on August 31, 1957. Therefore, interaction between them as two sovereign states only started in 1957. But the history of the relationship of their people can be traced back even to the prehistoric era, thousands of years before both states existed in their respective present forms. Although there is no concrete historical evidence in terms of documents or other material forms, some archaeological studies have postulated that movements or inter-migration of people in the Malayo-Polynesian region (which included the present day Malaysia and Indonesia) had taken place as early as 500 B.C.⁷ The inter-migration has been a continuous process until today but its magnitude and direction-flow fluctuates from time to time.

Due to the basic similarity in their cultures and languages, the new comers and the "original" local population in the intermigration process have intermingled without much problems and the process of assimilation between them has taken place relatively quickly. Because of that, there have been a general sense of "oneness" among these peoples, although natural human jealousies and occasional group or sub-group prejudices surface from time to time.

That general sense of "oneness" has been manipulated and exaggerated from time to time by political myth-makers and cultural idealists in both countries, especially during the pre-World War II anti-colonial movements. Indeed, the notion of "oneness" or *serumpun* (short form of *bangsa serumpun*) literally translated "people of the same racial or ethnic stock") proved to be useful in mobilizing anti-colonial sentiments and in boosting a sense of solidarity and mutual help among the nationalist groups in both countries. And at certain stages in the post-World War II relationship between the two countries, the *serumpun* concept continues to be significant. It is considered as a basis for "special relationship" between Indonesia and Malaysia. And as a result of that at times the notion has led into some kind of elusiveness. Like in any other forms of special relationship, unfulfilled expectations often cause undue disappointments and thereby unnecessary ill feelings. In other words, besides being instrumental in strengthening ties and bondage of friendship, the *serumpun* concept can also be counter productive. Because of that it needs to be specially looked into in the study of Indonesia-Malaysia relations.

In examining this concept it is useful to relate it to several factors pertaining to the two countries and their population: basic similarities, perception of ancient glory, inter-migration of people within the region,

manipulation of symbols and myths, common struggle against colonialism, and mutual desire to promote common culture and literature.

Besides linguistic and ethnic similarities, which are frequently mentioned when one refers to Indonesia and Malaysia, another aspect which is seldom mentioned, or perhaps already taken for granted, is the physical unity of the region as a single geographical entity. "Outsiders" from other cultural areas also seem to perceive the region as a single geographical and geo-cultural entity as reflected in the various names given to it by ancient travellers. Ancient Chinese travellers called it *Nanyang* (Southern Seas). To ancient Indian travellers it was *Yavadvipa* (Golden Islands). Until today in Mecca the Arabs refer to people from Malaysia and Indonesia as *Jawi* (literally means "people from Java). The Europeans designated the area by various names such as Malaysia, Malay Archipelago and lately Nu-santara. The point here is that Malaysians and Indonesians until recently are perceived by people from other parts of the world as "similar" people of the same *rumpun* coming from the same geo-cultural area. Arguably this must have contributed to the sense of "oneness" of the people from both countries. Thus indirectly strengthening the notion of *serumpun*, at least until recently.

Another factor which must have enhanced the sense of *serumpun* is a general perception of shared ancient glory. It has been a normal practice among new nations, or among nationalist group involved in anti-colonial movements, to harp on the indigenous people's ancient glory. Glorifying the past is considered part of the political socialization process in order to inculcate a sense of national pride and patriotism.

In the case of Malaysia and Indonesia, according to J.A.C. Mackie, "pride in the greatness of ancient Malay-Indonesian kingdoms is taught in the classrooms of both nations without much concern about the boundaries created by the colonial powers."⁸ Among the most eminent ancient kingdoms that people in both countries take pride in were Srivijaya (based in southern Sumatra in the seventh century), Majapahit (Java, 13th century) prior to the coming Islam, and thereafter the Sultanates of Malacca (Malay Peninsula, 15th Century), Brunei (North Borneo, 14th Century), Aceh (North Sumatra, 16th century) and Mataram (Java, 17th Century). Although perception or knowledge about those kingdoms and sultanates were vague and hazy and very much influenced by myths and legends, nevertheless, it helped to create a sense of pride over what they believed to be the glorious achievements of their

common ancestors. But it is understandable that there are differences of emphasis from place to place just as in other parts of the world. "Malays (Malaysians) are more likely to look back to Malacca Sultanate or even Srivijaya as the golden age, and the Javanese (Indonesians) to Majapahit and Mataram.⁹ But generally, as Mackie pointed it out in the passage quoted above, there was "not much concern about the boundaries created by the colonial powers." And indeed, legendary figures associated with the Srivijaya and Majapahit kingdoms are claimed by the Malays as *nenek moyang kita* or *bijak pandai kita di masa lalu* ("our ancestors" or "our men of wisdom of the past"). As recent as late last year, when the Malays talked about democracy in their political meetings, they still made references to *Demang Lebar Daun* and *Sangspurba* who drew the prototype of Malay political covenant at Bukit Siguntang (early capital of Srivijaya) on how to regulate the relationship between the ruler and ruled.¹⁰ Likewise, the legendary hero-warrior Hang Tuah of the Malacca Sultanate, was regarded as a national historical figure in Indonesia. Until today there are streets and hotels in certain major towns in Indonesia named after Hang Tuah. Examples of more recent personages were literary figure Abdullah Munsyi of the early 19th century Malacca and the religious scholar-cum-grammarian Raja Ali Haji (1809-70) of the Riau Sultanate. Riau is now one of the twenty-seven provinces in Indonesia. The former is considered one of the pioneers of modern literary writing in both countries. The latter was also jointly claimed by Malaysians and Indonesians as one of their leading intellectuals and religious "reformists" of the mid-19th century. In short, both countries jointly shared the pride of commonly perceived glories of the past.

One of the most celebrated personalities associated with the concerned efforts to glorify the achievements of ancient Malay-Indonesia kingdoms and their civilizations was Muhammad Yamin.¹¹ He was considered to be the most important leader besides the late President Soekarno in the formulation of Indonesian national ideology, Pancasila. Yamin was the chief exponent in advocating the concept of *Indonesia Raya*, a proposed modern nation-state of Indonesia in which Malaya was supposed to be an integral part. He was one of the most vocal members of the Investigating Committee for Preparation of Indonesia's Independence (*Badan Penyelidik Kemerdekaan Indonesia—BPKI*). This Committee was set up after the Japanese Military Authority in the former Dutch East Indies offered Indonesia the prospect of early independence in mid-1945. Among its tasks were to determine the

political and constitutional structure and the territorial extent or boundaries of the independent Indonesia. By a vote of more than two-thirds majority (thirty-nine out of sixty-six), the Committee accepted the arguments (put forward by Yamin and Soekarno) to include Malaya (and also British Borneo colonies) as integral part of the new proposed state.

In putting forward his arguments regarding the territory, Yamin asserted that ". . . the areas which should be included in Indonesian territory are those which have given birth to the Indonesian people: the motherland of a people will be transformed into the territory of a state. . ."¹² The areas he listed as inhabited by Indonesians were the islands of the Dutch East Indies (including West New Guinea or West Irian), Timor, North Borneo and Malaya. In addition to the ethnic criterion, Yamin also advanced an argument based on the claim of the Majapahit chronicle, *Nagarakartagama* which spelt out the territorial extent of the ancient Indonesian state indicating the earlier unity of the archipelago.

Yamin, who was a poet, is also remembered for his active role in the historic event of the "1928 Youth Pledge" (*Sumpah Pemuda, 1928*), considered as an important milestone in the formation of the modern Indonesian nation. He was noted among the "major Indonesian politicians for his eagerness to seize every opportunity to extol the historic greatness of the Indonesian people. He wrote copiously on their past glories and his books were widely circulated to schools." (Mackie 1974, 23). Although Yamin's writings might be considered as "poetic fantasies rather than serious histories," in the context of our present discussion, Yamin was no doubt, an important exponent of *serumpun* concept especially by his glorification of ancient achievements of the Malay-Indonesian peoples.

Besides Yamin, another major Indonesian national figure who attached importance to the common ancient history and the notion of unity of the Malay-Indonesian world, was the former Army Chief, General Abdul Haris Nasution. Although he was not as enthusiastic as Yamin, and definitely not as poetic, Nasution dwelt at considerable length on the same theme in his five-volume works on the history of the Indonesian war of 13 independence. Nasution acknowledged the significant contributions made by Malay nationalists in the Indonesian struggle against Dutch colonialism during the second half of the 1940s.¹³

As indicated earlier, inter-migration within the region had taken place since time immemorial. It has been postulated by socio-anthropological

studies and recounted in many myths and legends. Stating it more concretely, Mackie pointed out that for centuries before the international boundaries were settled in the last decades of the nineteenth century, seafaring Malays, Buginese, Sumatrans and Javanese roamed and settled at will throughout the archipelago. They had little regard for frontier in the modern sense.¹⁴ And when both countries were under the rule of Western colonial powers (Dutch in Indonesia and British in Malaysia) especially between the mid-nineteenth century and the early twentieth century, British colonial authorities encouraged the migratory flow from Java and Sumatra (also from China and India) to the Malay Peninsula (it was then called Malaya) in order to meet the man-power need of the colonial economic enterprises. There are also documentary evidences of earlier migration even without British encouragement.¹⁵ A sizeable portion of the Malay population in the western peninsular states of Perak, Selangor, Negeri Sembilan and Johore are descendants of those who migrated from the various parts of Indonesia within the last two or three centuries. As mentioned earlier, they were readily assimilated into the local Malay population because of linguistic, socio-cultural and religious similarities. And it is noteworthy that in the state of Negeri Sembilan, migrants from the matrilineal society of Minangkabau in Sumatra, who came in "waves" since the late seventeenth century, brought with them their famous social system of *Adat Perpatih* which has survived, albeit with some modifications, until today.¹⁶ Accounts of voluntary migration from various parts of the Malay archipelago to the Malay Peninsula in the seventeenth and eighteenth centuries are found in most standard text books on Malaysian history.¹⁷ Again, the point here is that the nature of the migrants, the history of the migration (and inter-migration) throughout the Malay World (archipelago), inevitably, has contributed to the notion of *serumpun*, at least until lately.

Another important factor, perhaps the most important, that has contributed to the conception and the development of the *serumpun* notion was the awakening of nationalism which was part and parcel of anti-colonial movements in both countries. The "given" or the natural similarities mentioned earlier were further reinforced by the similarity of being colonial subjects of two different European colonial powers. At the micro level, each colonial power might have left different impacts on the respective colonial subjects. But at the macro-level, the net effect of both British and Dutch colonialism was the retardation of the colonial subjects in every aspect. In that sense both the Malays and the Indonesians underwent a common experience as colonial subjects. Thus it is not

surprising if in the process of national awakening they resorted to harping on their "oneness".

In terms of documentary record, the expression of the sense of "oneness" between the Indonesians and the Malays could be traced back to the year 1906 when the famous Islamic journal, *Al-Islam*, published in Singapore, addressed its readers in the then British Malaya and Dutch¹⁸ East Indies in terms of "our religion" and our "community." The sense of oneness was further manifested and nourished in organizational terms when in 1922, the first association of Indonesian and Malays students, called *Jami'ah Alkhairiah* (The Welfare Society) was formed at Al-Azhar University, Cairo.¹⁹ When the society started another famous reformist journal, *Seruan Azhar*, in 1925, it declared that the journal was "to bring radiance and light to our (joint) HOMELAND."²⁰ The first issue of the journal urged editorially that "All our people . . . whether in Java, or in Sumatra, or in Borneo, or in the Malay Peninsula, must unite and share a common purpose and agreement to strive for advancement to seek the best ways of doing this, and on no account allow ourselves to split into separate parties."²¹ Two years later, introducing the first issue of the third volume, its editor was more explicit and emphatic about the "our homeland" concept. It was stated that the journal "is for our homeland, because we recognize Indonesia and the (Malay) Peninsula as one community, and what is more, virtually one religion . . ."²²

Apart from these activities in Egypt, in other centres of learning as well, the Indonesian and Malay students demonstrated and nourished their sense of "oneness" by forming common organizations and organizing joint activities. In Saudi Arabia in 1940, they formed *Persatuan Talabah Indonesia-Malaya* (PARTINDOM), Association of Indonesia and Malay Students.²³ About the same time, another generation of students in Egypt formed *Nadi Pemuda Indonesia-Malaya* (Pulse of Indonesian and Malay Youths) which was later renamed *Persatuan Pemuda Indonesia-Malaya* (PERPINDOM), The Association of Indonesian and Malay Youths. In Iraq, a similar organization was called *Majlis Kebangsaan Indonesia Malaya* (MAKINDOM, The National Council of Indonesia-Malaya). "Later MAKINDOM was transformed into *Perkumpulan Pemuda Indonesia* (PPI, Convention of Indonesian Youth, whereby the youths from Malaya regarded themselves as full-fledged Indonesians."²⁴ This reminds us of the historic event of the "1928 Indonesia Youth Pledge" where the various youth organizations formed on regional basis in the then Dutch East

Indies such as *Jong Sumatra* (Young Sumatrans), *Jong Java* (Young Javanese), *Jong Ambon* (Young Ambonese), etc. — united themselves into Young Indonesians.

Outside the Arab world, in India *Persatuan Indonesia-Malaysia* was formed in 1928; and in Ceylon similar organization was called *Kesejahteraan Rakyat Indonesia Semenanjung* (KERIS, The Welfare Organization of the Indonesia and Peninsula People).²⁵ In short, in the awakening of Indonesian and Malay nationalism prior to World War II, there had been deliberate attempt to inculcate the sense of "oneness" by student and political groups in the various overseas educational institutions.

In the Malay Peninsula itself, a particular educational institution, namely, the Sultan Idris Teachers Training College (SITC) needs special mention in its role in inculcating the *serumpun* concept. The SITC has been dubbed as "the cradle of Malay resurgence" and reputed as the center of Malay intellectual and literary life especially in 1930s and 1940s. A very significant portion of the reading materials used in SITC were published in Indonesia (in the Dutch East Indies). A sizeable number of its alumni before the mid-1950s became famous writers, educators, administrator. A number of important leaders of the *Kesatuan Melayu Muda* (The Union of Malay Youths) in the Thirties and of the *Parti Kebangsaan Melayu Malaya* (Malay Nationalist Party) in the Forties, were graduates from the SITC. Both parties openly advocated the union or merger between Malaya and Indonesia. Besides SITC, another important educational institution in the Malay Peninsula which had been instrumental in inculcating the *serumpun* concept in the Thirties and the Forties was the *Maahad Iلهya Assyarif Gunung Semanggul*.²⁶ In short, during the three of four decades preceding the independence of both countries, there had been various forms of activities and in various places, to inculcate the *serumpun* notion.

In the preceding discussion it has been pointed out that there had been many factors, including deliberate efforts of inculcation, that contributed to the development of the *serumpun* notion, especially among the Malays in the Peninsula and among youths and students of both countries during their sojourn overseas.

The sense of oneness, especially among the general populace, continued to be strong until independent Malaya was to grow to become Malaysia in 1963. At the inter-governmental (or bilateral diplomatic level), however, one or two political (pertaining to foreign policy matters) problems cropped up in the early years of Malaya's

independence that caused some strain in the relationship between the two countries. One of the problems was Malaya's "neutral vote" at the UN General Assembly over the West Irian issue. Malaya's position on this issue, however, was later rectified. Another problem was related to Malaya's indifferent or "neutral" attitude with regard to the 1958 rebellion in Sumatra and Celebes which displeased the Jakarta leadership. But the problem was contained before it caused further strain to the relationship of both countries. Of course, the major problem that really soured and strained the relationship was when President Soekarno launched his "*Konfrontasi*" in 1963 because of his opposition to the formation of Malaysia. Then for about three and-a-half years both countries were engulfed in belligerent relationship. The notion of *serumpun* (among the political leaders) gave away to mutual acrimony.

Before the "*konfrontasi*" episode, however, although the need to evoke the *serumpun* sentiment was no longer as important as it was during the anti-colonial struggle era, the natural attachment to it, especially among the Malays in Malaysia, was still relatively strong. Even after Malaya achieved her independence, Malays still celebrated the anniversary of Indonesian independence such that "17 August independence celebration at the Indonesian Embassy were a village gathering of the Malay world."²⁷

To most Malay writers and literary enthusiasts Indonesia was still a source of inspiration and the Indonesians were still referred to as *saudara kita dari seberang* ("our blood brothers across the straits") and occasionally they never failed to romanticize what they believed to be the ancient glory of both nations. When Prime Minister Djuanda made an official visit to Malaya in 1958, the renowned Malaysian (Malay) poet Usman Awang welcomed him with a specially written poem, entitled "Malaya-Indonesia: A Salutary Welcome to Prime Minister Djuanda and Entourage."²⁸ He evoked the sense of oneness and reasserted: "Together we belong to this great Nusantara." Usman did not forget to recall the great and glorious past of their common ancestors:

The bridge of history stretched across the Straits of Malacca
Is now rebuilt with the melody of unity and shared idealism
Majapahit comes to life, Srivijaya comes to life
They are mutually hugging: Admiral Tun Tuah and Premier Gajah
Mada.

Usman Awang's poem just cited is but one example of many literary works written by Malays in praise of Nusantara the speciality of its arts and culture, the achievements of its heroes and leaders and the glory of the ancient Malay-Indonesian kingdoms. All these testified to their attachment, and arguably that of their readers, to the concept or notion of *serumpun*. But it should be noted also that "in the 1950s and 1960s, mono-lingual Malays relied heavily on Indonesian works for want of local material. Indonesian books formed about 80 per cent of university literature text then."²⁹

The preceding accounts might have created an impression that, apart from student and youth groups sojourning in the Middle East and the Indian sub-continent, the attachment to the *serumpun* concept seemed to be a one-sided affair on the part of the Malays. Such observation might not be totally unfounded. But two factors should be taken into account: *first*, the direction-flow of recent migration; and *second*, the disproportionate size (in terms of population and other physical attributes) between the two countries. But the fact remains that the *serumpun* concept had been a significant factor in their relationship which had conditioned perceptions and expectations, at least until ten or fifteen years ago.

However, recent developments have shown that not only has there have been a growing discrepancy in each nation's perception towards the *serumpun* concept, there have also been significant changes on both sides. The differences on the perception are not only on the macro-level between the two countries but also on the micro-level among different groups within each country. And just as perceptions on the *serumpun* issue are changing and are now much more varied, the reasons for the changes are also many. A common determining factor in both countries that contributes to the differences is the generation gap. And related to that is the new social, economic and political realities currently present in each country.

The emphasis on similarities by previous generations was generally based on emotions and abstract notions (ethnicity, language, religion, culture, and history) which had served certain intended purposes from time to time. But among the younger generation such "abstract notions" seemed to be less relevant, due partly to an ahistorical orientation in education and upbringing and partly to the lack of meaningful interaction between counterparts in both countries. Related to all that is the lack of relevant knowledge (beyond touristic interests) about each other's

country. (Lately, however, this "interaction problem" has been gradually rectified by increasing exchanges of visits by various youth and student groups between the two countries.)

Therefore, it is not surprising if the younger generation, especially in Indonesia, looked at the *serumpun* concept with an indifferent attitude bordering sarcasm. An example of such occurrence is a magazine article reporting on a conference called *Dialog Malindo* (Malaysia-Indonesia Youth Dialogue) held in Malacca in December 1988. The conference was hosted by the UMNO Youth Movement (the youth wing of the ruling party, the United Malays National Organization). Participants from Indonesia were members of various youth organizations but were mainly supporters or sympathizers of the ruling party, *Golkar* (*Golongan Karya* or Functional Group). It was part of the efforts to rectify the "lack of interaction" problem alluded above.

During the three-day conference, most participants from Malaysia made no effort to hide their enthusiasm or attachment to the *serumpun* concept. Their speeches and views expressed during the conference were very much conditioned by it. In a way it was also meant as a hospitable gesture to welcome "brother participants" from the *serumpun* nation. The Malaysians wanted to emphasize their close relationship so that the Indonesian participants will truly feel at home at the *negara serumpun* or "the blood brother nation." Indeed, among the objectives of (the UMNO Youth Movement in initiating the dialogue was to 'rekindle' the *serumpun* spirit so that both nations will have more cordial and cooperative relationship. And the organizers were doing it in good faith although there were some signs of naivety among some of the Malaysian participants.

But participants from Indonesia as reflected by the magazine article, written by a member of the Indonesian delegation, saw that (the UMNO Youth's attachment to the *serumpun* concept) as "an obsession."³⁰ The article claimed that such "obsession" on the part of the Malay youths was a manifestation, and a consequence, of "racial politics" practised in Malaysia. In other words, there seemed to be lack of empathy on the part of the Indonesian participants towards the Malay youth's attachment to the *serumpun* concept.

When the *Dialog Malindo* was held for the second time, in Bogor, Indonesia, about thirteen months later the divergent views on the *serumpun* notion cropped up again as an issue even before the official opening of the conference.³¹ When the Malaysian delegation (basically

the same group who attended the Malacca meeting) arrived at the conference venue, they were given photo copies of the article mentioned above. This made some of them feel awkward and uncomfortable. And in the ensuing dialogue sessions both sides voiced dissatisfaction over their existing relationship but at the same time voiced a common desire to improve it.

The head of the Malaysian delegation Dato Seri Najib Tun Razak (Minister of Youth and Sports cum President of UMNO) said that cooperation in certain areas between the two countries were nothing more than "lip service" in spite the claim of special relationship. He raised questions regarding the import restrictions of Malaysian films and books to Indonesia, and pointed out that Malaysia allowed free inflow of such items from Indonesia. He also asked why Indonesia limited the landing rights of Malaysian Airlines to Jakarta to only four times a week whereas Singapore Airlines could land four times a day.

At one point during the Dialogue Session the situation became highly tense when some Indonesian participants protested against the ruling of a Malaysian High Court in the State of Sabah which found an Indonesian citizen guilty of smuggling dangerous drugs to Malaysia. He was sentenced to death in accordance with Malaysian law, and the execution of the sentence was to take place on one of the days of the dialogue session. The Indonesians felt that the sentence was too harsh and appealed for a lighter one. Some even questioned the "fairness" of the court trial. And in the name and the spirit of *serumpun* they wanted the dialogue session to adapt a resolution appealing for a lighter sentence. In response, members of the Malaysian delegation said that according to the law in Malaysia they were not supposed to interfere with the legal court process. The "death sentence" issue not only caused some commotion to the Malindo Youth Dialogue Session, but had also been given a sensational treatment by the printed media in major cities in Indonesia.³²

All these incidents, inevitably must have prompted the youths from both countries to look at the *serumpun* issue in a different light. The Indonesians might even be more convinced now on the "irrelevance" of it, whereas the Malaysians might be forced to look at it more objectively and to take into account the new realities. Nevertheless, through informal interactions during the three-day convention, members of the Malaysian delegation discovered that a number of their Indonesian counterparts, especially those with stronger commitments towards Islam and who originated from certain regions in the archipelago, still, to some degree, positively shared the *serumpun* sentiment. This should remind one that

due to the great "plurality" of the Indonesian society, generalization about their perception of the *serumpun* concept should always be qualified.

Another discovery during the three-day "Dialogue Session" was that some of the problems (the divergent views on *serumpun*) were due to semantics rather than substance. Whereas the Malays in Malaysia think of *rumpun Melayu* (the Malay stock) in terms of the whole Malayo-Polynesian region, the Indonesians conceive it as a "sub-ethnic group" along the northern half on the eastern coast of Sumatra, especially in the Province of Riau. Upon reflection, however, such a semantic problem is indicative of communication problem attributable to different political socialization processes of the younger generations in each country. The same thing can be said about their ahistorical orientation.

However, in spite of the various problems that cropped up, the two *Dialogue Malindo* sessions (in Malacca and Bogor) had opened up a useful communication channel to the younger generation in both countries. The various levels of interactions related to the two dialogue sessions must have helped to bring a new sense of "realism" to the Malays and a new "insight" to the Indonesians. Besides deploring the "unfulfilled" expectations in the "presumed" special relationship between the two countries, the UMNO Youth President Dato Seri Najib was also suggesting in the Bogor meeting, that:

The various similarities between the two countries should be further exploited with a more positive and creative attitude. The relationship can no longer based on cultural and historical similarities alone. Instead, it should also be viewed and explored in the context of broader geo-politics and mutually influencing military and security needs.³³

The same tone of thought can also be detected in the remarks by an influential Indonesian youth leader. Ridwan Saidi, when he said: "We are now looking for new 'idioms' to underscore our relationship."³⁴ Another Indonesian participant, a prolific magazine columnist, Fachry Ali, reinforced the idea further: "The special relationship between Malaysia and Indonesia in the future should be based on a more universal humanitarian values while at the same time exploiting the existing potentialities."³⁵

A further reflection upon the two "Malindo Dialogue Sessions" will also show that another important factor which might have conditioned

the Indonesian perception towards the *serumpun* concept was the marginalization (or the decline) of Islam in the Indonesian political power configuration. Unlike the case in the preceding decades before the 1960s, Islam, which was a major contributing factor to the *serumpun* notion, had exerted less and less influence on the formal political process within the last three decades. And as the former Indonesian Ambassador to Malaysia, General Soenarso Djajusman put it, "the approach (of each government) to religion is quite different."³⁶ Then, another consideration is that the groups which exercise increasingly dominant control over the economy, mass media and certain intellectual institutions have the inclination to look at the relationship between the two countries from a more "rational" and "universal" point of view and would like to see the relationship between the two countries based solely on the international norms of inter-state relations. Hence, the concept of *serumpun* became less and less relevant.

Another interesting episode to note about the different views between the Indonesian and the Malaysian leaders on the *serumpun* factor was a conversation between the then Malaysian Minister of Defence, Tengku Rithaudeen and President Soeharto. The conversation took place during Tengku Rithaudeen's visit to the President's palace after the Malaysian-Indonesian General Border Committee meeting in November 1988. During the conversation, according to Ambassador Djajusman, Tengku Rithaudeen mentioned the need to improve bilateral relations between the two countries since "we are of the same stock *serumpun*" President Soeharto's reaction, according to Ambassador Djajusman was that:

while he did not deny Tengku's remark, stated exclusively that bilateral relationship should be based on these principles: (a) recognition of each other sovereignty; (b) non-interference in other's domestic affairs; (c) to be mutually beneficial.³⁷

Ambassador Djajusman then commented that what President was saying "are universally accepted principles that govern bilateral relationship," and he asked "whether aside from those general principles should we still look for other means that can foster the existing relationship."

Ambassador Djajusman did not offer a definite answer to his own question but the general impression he gave throughout his paper was that there was not much difference between his views on *serumpun*

concept and that of the Indonesian youths in the two Malindo Dialogue Sessions mentioned earlier. At best it was luke warm, if not a total rejection. He argued that "the concept of being *serumpun* could not be implemented in the fullest sense," but he did not explain how to take the fullest possible advantage of the existing potentialities offered by the *serumpun* factor.

Ambassador Djajusman's counterpart, Malaysian Ambassador to Jakarta, Abdullah Zawawi, however, reflected a different view point and at the same time suggested the need for a new and more creative and realistic approach in handling the *serumpun* concept. He asserted that in discussing Malaysia-Indonesia bilateral relations, one cannot ignore "the concept of *serumpun* which is often quoted as that special bond which characterises the relationship between the two countries."³⁸ He alleged that "Malaysia and Indonesia have not been equally committed to our efforts to give meaning to the *serumpun* factor." *But at the same time he also acknowledged that both countries have come to the crossroads of their relations in which the serumpun factor should be there as a backdrop "to reflect and remind ourselves of our common roots, but at the same time build new pillars to support and complement existing ties."* It seemed that Ambassador Zawawi did not "over romanticize" the *serumpun* notion but at the same time did not reject it totally as irrelevant, he suggested that the *serumpun* factor should prompt both nations to intensify their cooperative efforts in the wider fields of economic and trade as well as other relations. He believed that it is far easier to preserve and build on the existing common values than to re-establish what have been lost.

CONCLUSION

From the preceding accounts it can be generally concluded that there have been growing detachment on the part of the Indonesians to the *serumpun* concept. Whereas on the part of the Malaysians a more realistic attitude towards the concept has begun to emerge. But at the same time the Malaysians still cherish the hopes that their *serumpun* ties with the big neighbour can be more creatively and positively exploited and nourished for the mutual benefit of both countries. At least two significant factors can be considered as the underlying reasons for the Malaysian stand. *First*, special relationship with a big neighbour, whatever the basis for the relationship might be, will always help Malaysia (as a relatively small country) to feel secure. *Second*, the

direction-flow of the migration within the last one or two centuries made the Malays in Malaysia feel psychologically and socially closer to Indonesia than the Indonesians feel towards Malaysia.

NOTES AND REFERENCES

1. J.A.C. Mackie, *Konfrontasi: The Indonesia-Malaysia Dispute 1963-1966* (Kuala Lumpur: Oxford University Press, 1974), 14.
2. *Far Eastern Economic Review* (FEER), 18 April 1985.
3. For an in-depth news analysis on this subject see M.G.G. Pillay, "Jakarta-KL Relation Lukewarm Under Mahathir," *Jakarta Post*, 19 March 1991.
4. Personal interviews with the Director of International Trade, Malaysia's Ministry of International Trade and Industry, Mr. Harun Sirat (13 July 1990), and the former Malaysian Student Director-cum-Cultural Attache in Jakarta, Mr. Haji Mohd. Said Radzi (11 July 1990). Remarks to the same effects were also made by the former Indonesian Ambassador to Malaysia Drs. Soenarso Djajusman, see *Siar*, January 1991.
5. Wirdaus Haji Abdullah, "Dugaan dan Pendewasaan dalam Dialog Malindo II," *UTUSAN MALAYSIA*, 2 February 1990.
6. Alfitra Salam, "Hubungan Malaysia-Indonesia Pelukan Dimensi Baru," *UTUSAN MALAYSIA*, 5 September 1989.
7. Zainal Kling, "The Socio-Cultural Unity of the Malay World," being a conference paper presented at the *Second Malaya World Symposium*, Colombo, Sri Lanka, 6 August 1985.
8. Mackie, *KONFRONTASI*, 15.
9. *Ibid.*
10. Reference to *Demang Lebar Daun and Sangsapurba* was made by a number of speakers at the 1991 general assembly of the Malaysian ruling party, the United Malays National Organization (UMNO), during a debate on the current status of the Malay royalty.
11. For a more detailed discussion on this matter see Bernard K. Gordon, *The Dimension of Conflict in Southeast Asia* (Englewood Cliffs, New Jersey: Prentice-Hall, Inc., 1966), 79-87; and Mackie, *KONFRONTASI*, 13-23.
12. Mackie, *KONFRONTASI*, 22, and Gordon, *Dimension of Conflict*, 84.
13. Dr. A.H. Nasution, *Sekitar Perang Kemerdekaan Indonesia* (Bandung: Disjarah dan Penerbit Angkasa, 1977). See especially the first 80 pages.
14. Mackie, *KONFRONTASI*, 14.
15. A number of graduation exercises (final year's research essays) on this subject have been written by undergraduate students at the University of Malaya and the National University of Malaysia, and selected portions of the essays have been published in a local journal, *Malaysia dari Segi Sejarah*, among them are: "Kampung Orang Kampar di Talang Bunut, Batu Pahat pada Awal Abad ke-20" (by Mohamad Khalid bin Shariff); "Penhijrahan Orang Banjar ke Daerah Mersing" (Mohd. Ali Haji Ismail); "Penhijrahan Suku Minangkabau ke Mukim Hulu Langat" (Norisa Nasar); "Masyarakat Minangkabau di Kuang (Paridah bt. Talib); and "Penhijrahan Orang Bawean ke Kuala Lumpur" (R. Hydat bin R. Iskandar).

16. Barbara Watson Andaya and Leonard Y. Andaya, *A History of Malaysia* (Hong Kong: Macmillan Education Ltd., 1982), 94-95.
17. *Ibid.*, is one of such books.
18. Quoted in William R. Roff, *The Origins of Malay Nationalism* (New Haven: Yale University Press, 1967), 56.
19. *Ibid.*, 88.
20. Quoted in *ibid.*, 88.
21. Quoted in William R. Roff, "Indonesia and Malay Students in Cairo," *INDONESIA*, no. 9 (Ithaca, New York: Cornell Modern Indonesia Project, 1970), 73.
22. Quoted in *ibid.*, 77.
23. Nasution *Sekitar Perang Kemerdekaan Indonesia*, 162.
24. *Ibid.*, 169.
25. *Ibid.*, 172, 173.
26. For further discussion on the roles of SITC and MIAGUS, see Firdaus Haji Abdullah, *Radical Malay Politics: Its Origins and Development* (Kuala Lumpur: Pelanduk Publications, 1985).
27. Suhaini Aznam, "The Malay World Dream Remains as Elusive as Ever," *FEER*, 18 April 1985.
28. Usman Awang, *Gelombang* (Kuala Lumpur: Oxford University Press, 1960).
29. Suhaini Aznam, "Malay World Dream."
30. Faizal Motik S.H., "Dialog Pemuda R.I. & Malaysia," *MEDIA KARYA* (January-February, 1989).
31. For detailed reports on the second "Dialog Malindo," see Zainuddin Ayip, "Adik-Abang Tidur Sebantal Tetapi Mimpi Lain-lain," *BERITA HARIAN*, 23 January 1990; and Firdaus Haji Abdullah, "Dialog Malindo II."
32. For example, the *SUARA PEMBANGUNAN* besides publishing sensational news reports also published special editorial column on the subject with the heading such as "Hukumlah Dia, Tapi Jangan Matikan Dia" (Punish Him by All Means, But Please Don't Take Away His Life). *SUARA PEMBANGUNAN*, 18 January 1990.
33. *UTUSAN MALAYSIA*, 2 February 1990.
34. *Ibid.*
35. *Ibid.*
36. HE Soenarso Djajusman, "Malaysia and Indonesia Bilateral Relations: Indonesia View," a paper presented at the *Second Malaysia-Indonesia Conference*, Penang, Malaysia, 11-14 December 1990.
37. *Ibid.*
38. HE Dato Abdullah Zawawi Hj. Mohammad, "Malaysia and Indonesia Bilateral Relations: Malaysian View," paper presented at the *Second Malaysia-Indonesia Conference*, Penang, Malaysia, 11-14 December 1990.

Similarities and Differences in Malaysia-Indonesia Relations: Some Perspectives**

AL BAROTO*

Bilateral relations between Malaysia and Indonesia are often referred to in both countries as being of a special nature, because they are perceived to be based on Malay ethnicity and Islam, geographic proximity, and a common history. Especially in the Malaysian view, the concept of "serumpun", from "bangsa serumpun", meaning "people of the same racial or ethnic stock", is often mentioned as being the special bond, which is the basis of relations between Malaysia and Indonesia. However, such perceptions should not be taken for granted and it is necessary to examine whether they are correct and what the consequences would be for the bilateral relationship if these assumptions were not valid.

Malaysia and Indonesia are two neighbouring countries, which play an important role in shaping ASEAN into a stable vehicle for regional

* Editorial Staff and Secretary of *The Indonesian Quarterly*, CSIS. He graduated from the Faculty of Social and Political Sciences, National University, Jakarta.

** The writer would like to thank Anne Greene Ph.D. for the supervision during the preparation of the article. But the writer alone is responsible for any possible mistake and error of judgement.

cooperation. Therefore, disturbances in their relations could create friction with consequences, not only for Indonesia and Malaysia, but also for ASEAN, and the stability and security on Southeast Asia.

It appears to have become accepted among part of the Indonesian and Malaysian society, that their close relations will continue in the future. Relations have been good, most agree, and there are no issues between the two countries which indicate future problems.

However, suspicions have arisen, which are apparently political, economic, and socio-cultural in nature, for instance: (a) the re-emergence of the conflict between Malaysia and Indonesia on the sovereignty over the Sipadan and Ligitan islands, and in the border area between Sabah and East Kalimantan¹; (b) between Malaysia and Indonesia there seems to be a kind of economic competition, especially in their exports; (c) the influx of illegal immigrants from Indonesia to Malaysia has stirred up a controversy in Malaysia; (d) the death sentence applied to Basri Masse on January 19, 1990 in Kinibalu, Sabah, has become an emotional issue in Indonesia; and (e) Malaysia seems anxious on the swiftness of improvement in political and military relations between Singapore and Indonesia.

The purpose of this paper is to describe and assess the relationship between Malaysia and Indonesia, including the period of confrontation (1964-66) and ASEAN era. Appreciating the close ties of the past, it is also important to predict future relations. Common interests make their relationship vital as a common strategy. This paper will emphasize bilateral relations between Malaysia and Indonesia, particularly in regard to their socio-cultural, political, security, and economic interactions.

SOCIO-CULTURAL INTERACTIONS

Referring to the conversation held by President Soeharto and the then Malaysian Minister of Defence, Tengku Rethaudeen, in Jakarta, on 2 November 1988. Tengku Rethaudeen mentioned the need to improve bilateral relationship between Malaysia and Indonesia since the two countries are of the same stock, or "*serumpun*". President Soeharto did not deny Tengku's observation, but added that the bilateral relationship should be based on additional principles, namely: (1) recognition of each other's sovereignty; (2) non-interference in other's domestic affairs; and (3) to be of mutual benefit.² President Soeharto stated that universally accepted basic principles should govern bilateral

relationships. The question that should be asked is whether aside from those general principles, are there other principles that should underlie this relationship?

Both countries have similar geographical and historical backgrounds. *First*, geographically, it is clear that relations between the two countries are "natural." Indonesia and Malaysia were born as states which are living side by side; therefore, long political contacts, trade exchanges, and even cultural "syncretism" have occurred among them. Moreover, the region around the Malacca Straits and the waters of the archipelago have always been a strategic concern, where trade among nations unites several Western as well as Eastern countries to serve their interests.

Second, the historic relationship between Malaysia and Indonesia can be traced back to the pre-independence period. During the period of "Glorious Kingdoms", which lasted from ancient times to the 16th Century AD, before the intervention of the Western colonial powers, i.e. the period of Sriwijaya, Majapahit, and the Malay kingdoms around the Malacca Straits, relations were close and involved friendly bonds, suzerainty, and trade relations.³ Malaysia and Indonesia share ethnic, historical and religious background, and both have been influenced by Hinduism, Buddhism, Islam, and European culture, mainly through colonisation.

However, there are differences between the two countries. *First*, Malaysia is small. It covers an area of about 128,553 square miles (332,953 sq Km), while Indonesia is enormous. It is 741,098 square miles (1,919,443 sq Km) and the sea area, including an exclusive economic zone, is four times larger, or about 7.9 million square miles. *Second*, Malaysia has small number of population, only eighteen million, while Indonesia has a huge population of over 180 million. *Third*, Indonesia has far greater differences in the diversity of races, ethnicity and religions than Malaysia. But the differences seem to be more deeply felt in Malaysia.

Fourth, there are differences in colonial experience. The two nations were colonised by two different Western nations. Malaysia by the British, and Indonesia by the Dutch, but both became independent at roughly the same time (early 20th Century) through nationalistic movements. Indonesia won its independence on 17 August 1945 through a bloody war. More than 300 thousand Indonesian had lost their lives in that revolution for national independence.

Conversely, Malaya was granted independence by the British colonial government. By 1957, it had become a free country within the British

commonwealth. Moreover, Malaya maintained its ties with the United Kingdom through a defence treaty. In 1963, Sabah, Sarawak and Singapore⁴ joined the former Federation of Malaya to form Malaysia.

At the end of World War II, some Indonesian leaders recommended that Malaya and Singapore become part of Indonesia. It was proposed by Indonesian leaders who were involved in the Investigating Committee for the preparation of Indonesian Independence (BPUPKI).⁵ Soekarno and Mohammad Hatta planned to discuss the matter with Malayan Leaders on their way back from their meeting with the Japanese Commander-in-Chief for South-East Asia, General Terauchi, in Dalat (Vietnam). But history took a different course. Meeting with the Malayan leaders did not take place, because the dropping of the atomic bomb in Hiroshima and Nagasaki on 6th and 9th August 1945 prompted the Japanese⁶ to surrender unconditionally its occupation over Indonesia. This gave an ample opportunity for Soekarno and Mohammad Hatta, to immediately proclaim Indonesia's independence on August 17, 1945, without including Malaya and Singapore.

Despite their shared colonial histories, Indonesia and Malaysia have taken different patterns as independent nations. Indonesia has subsequently come up as an independent state with a strong foundation of a national language and culture. The Indonesian leaders have successfully united hundreds of ethnic groups with different cultures and dialects. It has produced a national ideology, called Pancasila, which stressed the concept of unity in diversity (*Bhineka Tunggal Ika*, which means although Indonesia consists of many ethnic groups it is a single nation).

Malaysian development has taken a different direction. The most conspicuous feature of the domestic socio-political environment is the heterogeneous nature of the population and the tendency for every political issue to be transformed into a communal one. The Malays, who constitute about 47-48 per cent of the population, regard their interests as paramount because they are the indigenous inhabitants of Malaya. The other major races, namely, the Chinese and the Indians (including Pakistanis), are immigrants, who demand proportional powers as citizens, who have rightfully staked their future in the nation.⁷

Malaysian Laws required the Chinese and Indians to become citizens, while they were allowed to retain their cultural values and identities. Until now, the Malays have been reluctant to share power with the Malaysian Chinese and Indians.

In order to unite the different races, Malaysia introduced the concept of "*rukun negara*" (state in harmony, which means mutual assistance or association in the state). But it seems that Malaysia stresses Malay ethnicity implied in its "*rukun negara*". Therefore, for more than two decades, Malaysia is still in the process of having one national language and one culture.⁸

NATIONAL AND SOCIAL DYNAMICS

Nationalism is an important factor that Malaysia and Indonesia have to take into consideration in trying to understand each others' domestic political developments, as is Islam. This religion has also been approached differently in the two countries. The ideological differences between *Rukun Negara* (State's Mutual Assistance) and *Bhineka Tunggal Ika* (Unity in Diversity), for example, are reflected in both countries' political systems.

In Indonesia, party membership and objectives do not relate to racial or ethnic background, whereas in Malaysia the biggest and strongest party, UMNO (United Malay National Organisation), represents only the Malays, while the Malay Chinese Association (MCA), *Parti Gerakan Rakyat Malaysia* (Malaysian People Movement) and the Democratic Action Party (DAP) are basically Chinese, and the Malay Indian Congress (MIC) are Indians.⁹ Furthermore, in 1974, *Barisan Nasional* (National Front),¹⁰ was set up to counterbalance racial and ethnic differences that characterise the Malaysian party system. However, *Barisan Nasional* has not as yet functioned effectively in counter-balancing racial differences in the party system, largely because the necessary confidence among the leadership of the various parties is still lacking.

The Armed Forces (ABRI) play a substantial role in Indonesia,¹¹ unlike in Malaysia, because the existing Indonesian party system has not been able to overcome personal or primordial motives, be it religion or ethnicity or regional sentiments. Therefore, Indonesian political parties have not been able to organise and develop into modern political parties. Golkar, the biggest party, still shares power with ABRI and Korpri (the bureaucracy).¹² Indonesia has rejected all other ideologies than *Pancasila*, because other ideologies have caused disunity and instability in the past.

Concerning succession of the national leadership, Malaysia is ahead of Indonesia. Malaysia has had four Prime Ministers¹³ in a row without

disturbance. In Indonesia, the 1965-67 presidential change, from President Soekarno to President Soeharto, was traumatic. The trauma remaining from those days has made the nation cautious about change.

Recently, Indonesian leadership in many fields is in the hands of the younger generation, leaving generational change at the national leadership a conspicuous exception. In a recent development, there is a new vice-president. General (retired) Try Sutrisno, who is a member of the younger generation, or the post-1945 generation. He is a potential presidential candidate for the next elections, scheduled for 1998.

DIFFERING PERSEPTIONS OF THE CONCEPT OF *SERUMPUN*

Some Malaysian leaders, in particular, put a premium on cultural ties with Indonesia. One example is the firm belief in Malaysian circles in the importance of being *serumpun*,¹⁴ which is the basis of relations between Malaysia and Indonesia. That concept is one of the means that ought to be the strongest binding factor in the bilateral relationship, because of the common historical heritage and the feeling of originating from the same stock ethnically. To this end, Malaysia is adopting the concept of multi-racialism. By using the term '*bangsa*', or nation, it follows that what is meant by *serumpun* can only be applied to the *bangsa Melayu*, or the Malay people, who constitute only a part of the whole Malaysian population.

Unlike Malaysia, Indonesia does not adhere to the principle of *serumpun*. There are two underlying reasons, *first*, concerning the identity of Indonesians, which is not limited as that of the Malay race, and *second*, is related to the Islamic religion.

First, the Indonesian society is basically pluralistic. Since Indonesia is an archipelago, whose inhabitants, though of similar ancestry, are separated by the sea. This has led to the development of numerous cultural and linguistic differences. The population of Indonesia is divided into four ethnic groups (i.e. the Melanesians, the Proto-Austronesians, the Polynesians and the Micronesians), based on their linguistic identities and mentioned diversifications.¹⁵

In addition, there are 150 to 250 languages and dialects spoken and written over the entire Indonesian archipelago, and among these languages there exist many other different dialects. Since Indonesia's independence, the National Language has been officially introduced, and

is called the "*Bahasa Indonesia*." Pancasila, as the philosophical basis of the Indonesian state, demands that Indonesians avoid superiority feelings on ethnic grounds; for reasons of ancestry and colour of the skin. In fact, national identity in Indonesia was a major problem in the first twenty years after independence, among others because of communism and religions separatist movements.

Second, although Islam in Indonesia is adhered to by a far larger percentage of population than other religions, and undoubtedly played a major role in Indonesia's political history and the life of society, it is not linked with a specific race or races, nor is it the state religion. Even so, this religion has ever motivated those, who were fanatic followers of the Islamic religion, to make Islam the national ideology.¹⁶ But attempts have failed because the Indonesian people, who have different religions and beliefs, oppose the creation of an Islamic state. They can only be realigned around a unanimously accepted national consensus which is Pancasila.

In Malaysia, on the other hand, less than 50 per cent of its population are Moslems, but Islam is the state religion. Islam is also identical to Malay, and becomes an important political and social factor in the political system. However, for the first decade of Malaysia's independence, UMNO has faced the problem of how to relate to Islam.

UMNO and *Parti Islam* (Islamic Party), have been affected, though in different ways, by Islamic revivalism. In the wake of resurgence, both parties have increasingly invoked Islam to justify many of their decisions on national and international matters. Evidently UMNO, which is dedicated to the nationalistic cause (a position often considered to conflict with Islamic ideals), is forced to tread carefully in order to retain its influence. Thus far, many attempts have been made by the party to identify itself with the new Islamic sentiments.¹⁷ It is with a view to facing the *Parti Islam* that UMNO, which basically aims at modernising the Malaysia nation and society, also has to consider Islam as part of UMNO's and the government identity.

Another problem for UMNO is how to combine nationalism and development with Islam, and how to go beyond racial group interests and identity in the future. Malaysian politics has always been communal politics. A classic case of the plural society, the indigenous Malay (48 per cent) and the immigrants Chinese (36 per cent) and Indian (14 per cent) communities, which made up the population of Malaya when it

gained its independence in 1957. The society was divided not only by race, but also by language, religion, culture and economic role. Malaysia will always face problems of national unity if racial identity continues to be given such a prominent place in the political system.¹⁸ The immediate problem for UMNO is the development of mutual confidence among leaders of the three most important ethnic groups (Malays, Chinese and Indians).

POLITICAL INTERACTIONS

Considering the similarities and differences mentioned above, both nations share a bond based on their colonial legacy, one is confrontative and the other is collaborative.¹⁹ In other words, their relationship has been marked by 'love-hate' affairs, oscillating between conflict and cooperation.²⁰ Between these two aspects, many kinds of relationship and nuances exist, since it provided different perceptions on how to live together as neighbours and how to organise themselves as well in relation to the outside world. This difference was evident in their relationship, which could be divided into three periods, namely: close relations during the period of glorious kingdoms before the colonial era, confrontation (1964-66), and collaboration (1966 up to the present).

One extreme aspect as a milestone of intense relations between Malaysia and Indonesia is the confrontation era, which appeared from 1964 until 1966.²¹ The tension between the two countries began at the moment Malaya (Malaysia)²² became an actor in international relations (1957). At the time, Malaya faced an Indonesia which was threatened by domestic division. From 1957 until 1958, a revolt of regional military commanders, who had proclaimed the Revolutionary Government of the Republic of Indonesia (PRRI), had been quelled by the Indonesian government. In addition, the seditious and fanatic Darul Islam (DI) movement, which aimed at establishing an Islamic state and brought insecurity to large areas of central and west Java, had been crushed.²³ A score of leaders of the PRRI and DI fled to Malaya and asked for political asylum. Apparently Malaya felt sympathy for those revolts, or at least took a neutral stand towards these insurgents from Indonesia, because Malaya treated them as illegal arrivals, not as political refugees.²⁴ In addition, Malaya refused Indonesia's request for their extradition contending that there was no extradition agreement yet between both countries.²⁵

ERA OF CONFRONTATION

The confrontation policy basically reflected an era when Indonesia, which has just freed itself from the remains of Dutch colonialism in West Irian (now Irian Jaya), felt surrounded by neo-colonial forces. The establishment of Malaysia was seen as an effort of the West, mainly England, to form a means to maintain its present in Southeast Asia. In 1963, Indonesia reacted strongly against the plan for the formation of the Federation of Malaysia,²⁶ which then President Soekarno regarded as being an extension of Western hegemony. That federation was also considered a *Nekolim's* puppet (neo-colonialism, colonialism and imperialism). Moreover, the federation was seen by Soekarno as the increase of threats and the emergence of a Second China (because that federation would include Singapore), which would dominate Southeast Asian politics and economy, especially in Malaysia and Indonesia itself.²⁷ Under the influence of the Indonesian Communist Party (PKI), President Soekarno staged a confrontation with Malaysia and broke off diplomatic relations on September 3, 1964.

Following the difficult years of confrontation, however, with the emergence of the New Order Government after the abortive communist coup in 1965, the confrontation was soon to be put to an end. In June 1967, the two countries signed a peace pact, and August 31 diplomatic relations were resumed. The two countries finally came to their present close cooperation, bilaterally as well as within the framework of ASEAN.²⁸ Both countries agreed to join up with Singapore, the Philippines and Thailand, to create a full cooperative relationship. The termination of the confrontation policy was followed by Indonesia's readiness to be involved in forming a regional Southeast Asian cooperation. It was one of the reversals of Indonesia's readiness to be involved in forming a regional Southeast Asian cooperation. It was one of the reversals of Indonesia's approach towards its external environment in the effort to maintain stability and security.

AFTER CONFRONTATION

After the confrontation era, the relations between Malaysia and Indonesia is marked by a spirit of cooperation. This era of cooperation, from 1966 upto the present, is basically the longest period in the history of bilateral relationship between the two countries. Political relations between Malaysia and Indonesia, may be considered as a community of

family relationship (*gemeinschaft*), which shows intimacy but actually disguises some complex problems, particularly the problems concerned to issues which are directly related to their respective national interests. Even though cooperation between them within ASEAN has existed for more than two decades, some problems still have not been solved.

The background of confrontation and cooperation within ASEAN, may be said to symbolise a relationship, which basically is one of love and hate all at once. This kind of relationship may have two underlying reasons: (1) the fact that Indonesia is located within one geographical position with Malaysia, makes it difficult to understand their relations by only referring to the *rational* aspects of interrelationship; and (2) similarities and differences in geographic, history, economic and cultural ties, to quite a high extent, has influenced political relations between Malaysia and Indonesia *emotionally*.²⁹

Rationally, being neighbours, both countries have made concerted efforts to fix in a clear way the boundaries of each country's internal sovereignty. As far as internal problems are involved, the principle of non-interference with the affairs of neighbouring countries has been kept and maintained as far as possible. Generally speaking, at the official level, relations between two countries appear to be good and no urgent problem seems to be in need for being solved.³⁰

Emotionally, the relations between Malaysia and Indonesia conceal at least anxiety emerging from *actual* and *perceptual* factors:

First, as to the *actual* factors, there are some unfinished problems, such as border and territorial disputes, illegal immigrants and others. Even though those problems are subdued, they have often caused strained relations between two countries.³¹

Currently, the most conspicuous problem between the two countries involves border and illegal crossing from one country to another. Even though most borders between Malaysia and Indonesia are agreed upon, some borders have not been completely settled yet, such as those between Sabah and Kalimantan. In order to discuss and settle border and security problems in border areas, both countries have organised a Joint Border Committee (JBC).

One of the main issues in the maritime zone, is the Malaysian and Indonesian dispute over the Sipadan and Ligitan islands. The eastern region of East Kalimantan and Sabah still needs to be more accurately defined. The disputes concerning the two islands, and the exclusive economic zone nearby, still impede relations between two countries. In

1982, some quarters in Malaysia apparently have become impatient and have started to exploit the area for maritime tourism.³² Its rationale is that these islands are part of the Malaysian continental shelf.

By contrast, Indonesia also claimed the island as parts of its continental shelf. Since 1969, Indonesia has imposed a *status quo* on the islands, which prohibits any activities until an agreement is reached. The conflict began following press report that Malaysian businessmen had developed Sipadan into a tourist resort, and it has been highly publicised by the press over the past couple of years.³³

Another issue, which is in fact related to the delineation of the border concerns the part of the Straits of Malacca beyond the parts that are overlapping with each other. The operation of traditional fishermen from both countries in the overlapping zones as well as in the Indonesian waters separating the Malaysian Peninsula and the eastern part of Indonesia, often causes political problems between the two countries. There are always cases in which those fishermen who are fishing in this area are being caught by the respective authorities since they are regarded as illegal fishing.

Owing to its proximity and the existing traditional bonds, for the last five years a great number of jobs have been available in Malaysia. Because, as a result of Malaysia's national development programme, the construction and plantation sectors there, are much in need of labour supply. In addition, there are economic differences. Malaysia had a per capita GNP of US\$ 2,130 (1989), while Indonesia was in the order of US\$ 570 (1991).³⁴ The much higher level of Malaysia's economic welfare and development has led to a great number of Indonesia's surplus labour force to come into Malaysia for a better life. There is a relatively heavy traffic of people.

To limit the number of illegal Indonesian immigrants, on May 12, 1985, memoranda of understanding were reached in Medan, one was to arrange labour supply to Malaysia and the other concerned border crossing.³⁵ Of the two memoranda, one that regulates the flow of labour supply from Indonesia to Malaysia has been agreed upon, but due to a number of constraints the flow was insignificant and it could barely have any impact on the flow of illegals. The presence of the large number of illegals caused problems in the bilateral relationship, and was exacerbated by the press.

These actual problems should really be handled in a rational way. However, those existing problems shows that there still seems to be a

certain hidden resentment (feeling awful) between both countries. This feeling is based on the belief that both countries are of one family, of one stock (*serumpun*). Based on that belief, it is assumed that both countries will be able to settle all problems in a favourable way. However, the protracted problems just shows the "awkwardness" in settling problems between two countries, which is supported by the principle of *gemeinschaft*. It also shows that there is a blending of actual problems emerging from blurred borderlines inherited from the colonial government of each country, and the anxiety as a consequence of past experience,³⁶ added with the cultural psychology created through the relationship of a larger country (Indonesia) facing a smaller one (Malaysia), and *vice versa*.³⁷ Therefore, a businesslike attitude in settling this problems seems necessary.

Second, from the *perceptual* point of view,³⁸ Indonesia has enunciated its principle, which is based on recognition of each other's sovereignty, non-interference in other's domestic affairs, and to be of mutual benefit. On the other hand, Malaysia emphasizes the importance of *serumpun* to the effect that it seeks to build new pillars to support and complement existing ties between the two countries.³⁹ Malaysia, which feels having similar roots but smaller than Indonesia, views Indonesia as its big brother. Malaysia may suffer from fear that Indonesia will dominate it, as an older brother sometimes does to a younger one. In this psychological atmosphere, the big brother is asked to humour his younger brother. But to what extent can this level of giving in be tolerated by elements in Indonesian society? As for this concept of family relations, even though it may be accepted widely by both societies, a strong desire is growing for relations based on businesslike principles. If this trend of society develops in both countries, apparently new approaches are needed in order to manage future relations.

In the ties between Malaysia and Indonesia, personal relations between leaders of both countries in the era of the New Order have been growing for the last two decades. The forging of personal relations among them, on the one hand, nowadays have been able to bring both countries closer together, and have decreased suspicion on both sides. On the other hand, such relations hide problems. Territorial disputes, for example, since they are related to the very basic problem of the exercise of sovereignty, should not remain unresolved.

Some people believed that both countries should be able to solve this issue, considering that the present leaders, who are in good terms with each other, are still in power. If it is being delayed until the next

generation, it might be more difficult to solve, since conditions and situations may change to become unfavourable for a peaceful solution.⁴⁰ Therefore, in order not to depend on personal ties, relations between two countries should be supported by adequate constitutionalisation in its implementation. Otherwise, then disturbances in personal relations, including those caused by the change of leadership, may alter what has been achieved so far. In addition, the anxiety that Malaysia as a smaller country compared to Indonesia, and the actual problems, which have not as yet been solved, reflect fears which could disturb future relations between the two countries.

Currently, both countries realise that institutionalised relations are increasingly needed by both parties for the sake of strengthening mutual trust. Therefore, besides more personally based relations, efforts are also made to establish wider institutionalised communicative relations in several fields. Cooperations between the two countries have been established, for instance: cooperation in education, students/teachers exchange; cultural exchange; exchange of visits by various parts of society, such as members of parliament, youth, and bilateral seminars/conferences should be held. Particularly youth exchange programmes, and dialogues among young people, are very important for the two countries. These efforts are to be made in the changing environment of both countries, particularly as the younger generation takes over national leadership in their respective countries. This new generation, unlike the incumbent leaders, who have nurtured the existing close relationship, may not have strong emotional motives to support such a close bilateral relationship.

All the efforts mentioned above, are needed by the two countries, to strengthen the established political ties. Rapid improvement in political relations should also be balanced by military relations and cooperation by both countries. Further, the institutionalisation of relations between the two countries in the economic field, defence and security, may also contribute in improving the climate of relations between Malaysia and Indonesia.

In addition, relations between *Barisan Nasional* and Golkar and the two other political parties in Indonesia could be promoted by organising more regular meetings. It can be implemented through exchange of visits, regular meetings, and more frequent consultations in various international fora such as the Asian Parliamentary Union and the International Parliamentary Union. Both countries should also develop

closer cooperative relationship, bilaterally or within the framework of ASEAN, in their foreign policy conduct.

INTERNATIONAL AFFAIRS

In general it can be said that between Malaysia and Indonesia, there is a similar perception in international affairs be it regional or global. Being developing nations, both governments feel the need for a stable and peaceful environment, which is conducive to future development. Therefore, efforts are being made to make ASEAN a viable and solid vehicle to promote economic growth. Finally within the context of the superpower rivalry the concept of "Zone of Peace, Freedom and Neutrality" (ZOPFAN), which is also called the Kuala Lumpur Declaration, was launched.⁴¹ Although ZOPFAN could be fully implemented, the concept is important because the launching of the idea in itself demonstrates the common perceptions that exist and how keen the ASEAN leaders are in having a secure and peaceful environment.

Aside from this basic premise, both countries are also pursuing the policy of non-alignment and are members of the non-aligned movement (NAM). Although there is a slight difference with the regard to their approaches towards Islam, both countries are members of the Organisation of Islamic Conference (OIC). Those are the avenues which can serve as means to foster bilateral cooperation. However, even though both countries are members of the NAM and also members of the OIC, differences in interest and perceptions have complicated their relationship. Indonesia feels itself being more identified with the NAM,⁴² while Malaysia feels being more representative in the OIC.

Consequently, their policies may differ in view of the same issue. Their diplomatic manoeuvres and foreign policies still reflect sensitivities in their relationship. Some cases will show the similar and different views between Malaysia and Indonesia. For instance: (1) both countries have supported the implementation of the idea of ZOPFAN and its relation with the presence of countries outside the region; (2) there is a territorial disputes regarding the jurisdiction over Ligitan and Sipadan islands in the International Law of the Sea; (3) in the Arab-Israel Conflict, and in the problem of Bosnia, Malaysia's reactions are stronger than Indonesia.

In addition, each of the manoeuvres by Malaysia and Indonesia, to a certain degree, conceals their rivalry to play a leading role in certain matters. Indonesia has shown its attempts in becoming the leader of the NAM, while Malaysia is anxious to become the leader in the South-South dialogues. These divergent foreign policy-lines have added to the complexity of Indonesia's dealing with Malaysia.

ECONOMIC INTERACTIONS

In the field of economy, Indonesia and Malaysia started as primary commodity producing countries, and slowly developing into manufactured goods. The two countries are producing the same export commodities, including rubber, palm oil, oil, liquefied natural gas (LNG), cacao, wood and tin. Therefore, the problem in economic relations between Malaysia and Indonesia is that both are developing countries, which produce relatively competitive commodities in the international markets. The problem being faced is how to win new markets, since generally speaking those commodities fall in the category of buyers market commodities, one can imagine how difficult it is to find the most suitable market.

Competition to maintain markets has become the most striking obstacle to good relations, particularly if the commodities involved experience a fluctuation of prices in the international market. Joint efforts, like in the marketing of wood, may benefit both parties in facing the international market. However, respective national interest of the two countries, concerning their commodity export, seems to hamper the emergence of their political will to establish cooperation, in marketing as well as research, in order to enhance the value of their export commodities.

To lessen the negative aspect of competition, both countries have joined a number of international commodities organisations, designed to promote cooperation and benefit all the members. But still there are cases in which the national interest could not as yet be satisfactory, especially when the prices of those commodities fell. The falling of prices frequently occurred, since prices can fluctuate very easily.

Even though the two countries have had an Economic and Technical Cooperation Agreement since 1973, efforts to develop economic relations between both countries apparently still lacks in political will. Potential mutually beneficial solutions might involve development of

marketing strategies for those commodities, processed raw materials like wood products, and manufactured products, with a view to jointly penetrating the world market. The similarity of Indonesian and Malaysian commodities could be turned into an advantage in the international markets.

Bilateral trade is increasing from year to year, albeit slowly. Until 1986, the trade favoured Indonesia, but since 1987, Malaysia has experienced a surplus (see Table 1). The shift in trade between Indonesia and Malaysia, gives the impression that both parties are trying to enhance their trade. Although since 1977 the Preferential Trading Arrangements (PTA) have been applied⁴³ among ASEAN members, most of the items that are being traded do not fall in this category. It means that the ASEAN PTA arrangement does not yet serve its purpose to improve the intra-ASEAN trade.

TABLE I
Export and Import Values of Indonesia To and From Malaysia in
1980-91
(in US\$)

Year	Exports I-M	Imports M-I	Balance of Payments
1980	59,876,086	35,859,134	+ 23,217,752
1981	74,980,482	59,624,318	+ 15,284,164
1982	59,078,554	56,270,076	+ 3,693,602
1983	57,963,678	60,045,468	- 2,081,790
1984	98,181,363	86,203,327	+ 12,135,895
1985	76,611,767	52,378,757	+ 24,233,010
1986	82,312,127	50,410,758	+ 31,901,369
1987	93,757,189	138,906,319	- 45,149,130
1988	184,031,620	276,141,082	- 92,109,462
1989	220,112,934	369,019,045	-148,906,111
1990	253,204,762	325,668,075	- 72,463,313
1991	341,766,717	406,715,595	- 64,948,878

Source: Central Bureau of Statistics, *Statistik Perdagangan Luar Negeri Indonesia: Ekspor dan Impor* [Indonesia's Foreign Trade Statistics : Export & Import], according to the relevant year.

In addition, with regard to the scale of Indonesian international trade, the percentage of trade with Malaysia is very low, and does not show significant change from year to year (see Table 2).

TABLE 2
Indonesian Foreign Trade Trends in 1980-91 (US\$ Million)
 Including Oil and Gas

<i>Year</i>	<i>Exports</i>	<i>% of I-M*</i>	<i>Imports</i>	<i>% of M-I**</i>	<i>Balance of Payment</i>
1980	23,950.4	0.25	10,834.4	0.33	+13,115.5
1981	25,164.5	0.29	13,272.1	0.45	+11,829.4
1982	22,328.3	0.26	16,859.9	0.33	+5,468.4
1983	21,145.9	0.27	16,351.7	0.37	+4,794.2
1984	21,887.8	0.44	13,882.1	0.62	+8,005.7
1985	18,586.7	0.41	10,259.1	0.51	+8,597.6
1986	14,805.0	0.55	10,718.4	0.47	+4,086.6
1987	17,135.6	0.54	12,370.3	1.12	+4,765.3
1988	19,218.5	0.95	13,248.5	2.05	+5,970
1989	22,158.9	0.99	16,359.6	2.25	+5,799.3
1990	25,675.3	0.98	21,837.0	1.49	+4,838.3
1991	29,142.4	1.17	25,868.8	1.57	+3,273.6

*% of I-M: the percentage of Indonesian export value to Malaysia, divided by the export value of Indonesian Foreign Trade.

**% of M-I: the percentage of Indonesian import value from Malaysia, divided by the import value of Indonesian Foreign Trade.

Source: Table A.1. Indonesian Foreign Trade Trends in 1980-91 (US\$ Million), 1992 *Direction of Trade Statistic Yearbook*, p. xx; the balance of payments is counted by the writer.

The difference in dependence on the international markets between two countries has also affected their attitudes toward international economic challenges. A case in point is the Indonesian response to Malaysia's proposal to form an economic grouping in East Asia, the East Asia Economic Group (EAEG). Even though this is more related to the political field, Indonesia is very careful in its reaction towards that proposal. The difference in the level of dependence on markets for export goods and that of the economic life of both peoples also influence their approach in the international economy.⁴⁴

There is another area of competition between the two countries with regard to advanced nations. Competition intensifies in connection with the rapid flow of industrial relocation from the Newly Industrialised Countries (NICs) in East Asia (Japan, Taiwan, Hong Kong, and South Korea) to the Southeast Asian Region. Both countries have their respective ambitions to become industrial forces, in order to play a role

in the international economic constellation. Their ambitions have led them both to competition in winning as many investments and industrial relocations as possible from saturated countries.

At a time when the developed countries as well as the NICs of Asia are relocating industries to maintain their competitive edge in the global market, a substantial amount of investments are being made in the Southeast Asian region. It is understandable that the two countries are offering attractive incentives to solicit for investments. It would be a pity, though if in doing so, both countries marginalise the benefits and returns from these investments by their efforts to outbid each other. There is much gain if both countries could consolidate and coordinate their policy formulation on investment packages which remain sufficiently attractive to overseas investors yet maximise returns to both countries.⁴⁵

MILITARY AND SECURITY INTERACTIONS

Military and security relations between Malaysia and Indonesia may be described as good at present. Joint military operations between the two countries, reflect an ever closer cooperation in the military and security fields. Initially this security cooperation was established by organising joint security operations in the border regions of Kalimantan, in 1966. This was then followed by joint military exercises by the three armed forces, i.e. navy, air force and army. The involvement in this cooperation has been extensive, such as the military operation facing the communist insurgents (PGRS and PARAKU),⁴⁶ around the border of Serawak-Sabah in Malaysia with West and East Kalimantan in Indonesia. The communist insurgents had in fact launched their operations even before ASEAN was founded.

The cooperation was enhanced by the establishment of a Joint Border Committee (JBC) that included joint military manoeuvres (initially, the JBC confined to dealing with communist insurgents in the Sabah and Serawak border areas). Cooperation in the field of defence and security between the two countries has been successful and fairly well developed. This cooperation is in fact considered as the backbone of the existing bilateral relationship.

Defence and security cooperation now includes intelligence exchange, joint exercises, exchange of officers to attend courses in military educational institutions, and exchange of information in arms acquisitions. The two countries also provide a limited arrangement on the

complementarity of both countries' arms industry. Cooperation could also be promoted in the specific fields of arms procurement or in arms industry. Cooperation in procurement could be developed further with the objective of increasing efficiency. A triangular defence and security cooperation between Indonesia, Malaysia, and Singapore should be considered, in view of guarding the Sea Lanes of Communication (SLOC) of the three countries.⁴⁷

The general condition of Indonesian relations with Malaysia and Singapore, in defence and security, seems to be improving. On the other hand, there is a kind of apprehension on the side of Malaysia, on account of the enhanced relations and military cooperation between Indonesia and Singapore.⁴⁸ Apparently Malaysia fears that Indonesia's closer military ties with Singapore will affect Indonesia's relations with Malaysia. Relations and the level of cooperation between Indonesia and Singapore, which just commenced in 1974, seem to be developing at a much faster pace than those between Indonesia and Malaysia. On the other hand, the idea of a triangular economic cooperation for a growth triangle, including Singapore, Johar in Malaysia, and the Riau islands (especially Batam and Bintan), may even increasingly strengthen relations among the three nations,⁴⁹ not only in economic field, but also in the political field, such as reduced suspicions among the three nations.

Formally Malaysian officials welcomed the close military cooperation between Indonesia and Singapore. In some Malaysian circles, however, this roused suspicions⁵⁰ of possible Singapore-Indonesia conspiracy against Malaysia. However, Malaysia's apprehension about a possible Singapore-Indonesia federation is unfounded since military relations and cooperation between Malaysia and Indonesia actually existed long before there was any cooperation between Indonesia and Singapore. Perhaps, there is a feeling of jealousy in Malaysia, due to the improved quality of military relations and cooperation between Indonesia and Singapore.

In order to enhance ties in the political and security fields, Malaya's relations with ABRI and the Indonesian Department of Defence and Security should take into account ABRI's role in socio-political matters. This implies that relations with ABRI should not be confined to defence and security only, but should also include political matters. Military cooperation between Indonesia and Malaysia, and between Indonesia and Singapore, need to be increasingly strengthened, because military and security cooperation between three countries would reinforce the triangular relationship.

On the other hand, there is a difference in perception concerning military and security cooperation with outside parties between Indonesia and both neighbours. Because of its experience, Indonesia apparently does not see the benefit of defence and military cooperation with forces outside the region. This is evident from Indonesia's opposition, at least formally, to the presence of foreign bases and defence/military pacts in Southeast Asia. On the other hand, Malaysia as well as Singapore, sees a certain value in having defence relations with outside countries. Malaysia and Singapore joined a Five Defence Power Arrangement (FDPA) in the early 1970s. Until now, there have been no signs that either will abandon this kind of defence cooperation, even though the international climate has improved. In the past there was a speculation that this pace was aimed at Indonesia.

CONCLUDING REMARKS

Malaysia and Indonesia, with their similar cultures, history, and shared borders, have enjoyed close relations from time immemorial. Their relationship is strategically important, and together with Singapore, the three countries could become the spearhead of ASEAN regional associations. However, it is obvious that the relationship should not be taken for granted.

Good relations between Indonesia and Singapore was just established in 1974. Nevertheless, the swiftness of improvement in the political and military relations between Singapore and Indonesia caused apprehensive feelings on the part of Malaysia.

From the Malaysian perspective, good relations with Indonesia are often based on the similarity of race, culture, and religion. Malaysians are inclined to overlook the differences, ranging from historical, political, economic to socio-cultural ones. There are other differences, ranging from geographic size, number of inhabitants and resources. In fact, those differences have influenced their different perceptions about relations between the two countries.

Before independence, particularly in the wake of Japanese occupation, the two countries established a close relationship. However, from 1964 to 1966, the relationship was disturbed by confrontation, and since 1966, it has reverted to collaboration. Since 1967, relations have ameliorated due to collaboration among ASEAN member countries. Hence, it can be inferred that the bilateral relations between Malaysia

and Indonesia are characterised by simultaneous love-hate feelings, emotional factors and real issues. Some cases, which have been mentioned, show this pattern.

Current relations are becoming more intimate, but they are still marked by problems. While there are good formal relations, they are often disturbed by misunderstandings, insensitivity, or lack of consultation. Consequently, when a problem emerges, people easily reflect again on their feelings, as in the case of relations between an older and a younger brother. This psychological situation happens, because bilateral relations may be based more on community of family relationship rather than on pragmatical and businesslike attitudes.

The concept of *serumpun*, which is based on Malay ethnicity and Islam, can not be fully applied, because both countries have their own experience in facing problems of national unity, races, ethnicity and religion.

After 1967, relations between the two countries have improved. Although, the emphasis seems to be still on the political and security realms, the economic field is still searching for a definite fora. Furthermore, competition in the economic field still prevails. However, the complementarity of the Indonesian and Malaysian economies with that of Singapore, has generated the idea of a triangle of cooperation (SIJORI) that could strengthen relations among the three nations.

Malaysia and Indonesia should realise that they are different, and the differences will continue to exist. Those differences, however, may not hamper their relations. Efforts should be made to improve understanding of the differences, and to overcome them immediately whenever those differences begin to affect the relationship. Perceptions and accepted notions of the great similarities between the two countries, should be continuously re-examined so as not to be overtaken by developments and to lose thus their relevance to become mere myths.

This writer believes that efforts to develop cooperatives between leaders, policy-makers, ASEAN young leaders, and people of the two countries, could enhance bilateral relationship. But formal government to government relationship should be a dominant factor in this bilateral relationship.

Bilateral relations between Malaysia and Indonesia are likely to remain stable and fruitful for a long time, if efforts continue to be made

to improve formal and informal links between the two nations. It is clearly in the best interests of both to pursue a survival in the changing international and regional environments.

NOTES AND REFERENCES

1. In Joint Commission of Meeting (JCM) in Jakarta, 5-8 February 1993, the talk on this problem was delayed. It will be discussed again in the Joint Working Group on Spiadan and Ligitan, in the next meeting; see *Kompas*, 9 February 1993.
2. HE Sonearno Djajoesman, former Indonesia's Ambassador to Malaysia, "Malaysia and Indonesia Bilateral Relations: Indonesia view." Paper presented at the Second Malaysia-Indonesia Conference, organised by ISIS and CSIS in Penang, Malaysia, 11-14 December 1990.
3. See O.W. Wolters, *History, Culture and Religion in Southern Asian Perspectives* (Singapore: ISEAS, 1982); see also J.A.C. Mackie *KONFRONTASI: The Indonesia-Malaysia Dispute, 1963-66* (Kuala Lumpur: Oxford University Press, 1974), 14-15.
4. Singapore left the Malaysian federation in 1965.
5. According to Yamin's concept, the "Greater Indonesia" was unthinkable without the inclusion of Malaya; see Agung Gde Agung, *Twenty Years Indonesian Foreign Policy* (Paris: The Hague, Mouton & Co., 1973), 465; We recall the debates on the definition of the Indonesian region when this was to be defined at the BPUPKI, which was set up in mid-1945 — whether the nation to be established would be Great Indonesia, including Malaya (and British Borneo colonies and Singapore); see Mackie, *KONFRONTASI*, 23 & 84; see also Peter Boyce, *Malaysia & Singapore in International Diplomacy: Documents and Commentaries* (Sidney: Sidney University Press, 1968), 58; and Zakaria Haji Ahmad, "Malaysian Foreign Policy and Domestic Politics: Looking Outward and Moving Inward?" in *Regional Dynamics: Security, Political and Economic Issues in the Asia-Pacific Region*, ed. Robert A. Scalapino, Seizaburo Sato, Jusuf Wanandi and Sung-Joo Han (Jakarta: CSIS, 1988), especially 113.
6. After the Japanese attack of Pearl Harbour in Hawaii, Japanese Armed Forces went southwards and occupied several South-east Asian Countries, including Indonesia. After the British defeat in Singapore, Japanese forces invaded the Dutch East Indies whereupon the Dutch colonial Army surrendered to the Japanese in March 1942. The Japanese introduced Japan's "Great East Asia Co-Prosperity Idea" which became unpopular in Indonesia as the Indonesians realised that Japanese occupation was just an alternate colonialism substituting Dutch colonialism.
7. Zakaria Haji Ahmad, "Malaysian Foreign Policy and Domestic Politics: Looking Outward and Moving Inward?" in *Asia and the Major Powers: Domestic Politics and Foreign Policy*, ed. Robert A. Scalapino, Seizaburo Sato, Jusuf Wanandi, and Sung-Joo Han (Berkeley: Institute of East Asian Studies, University of California, 1988), 260.
8. Really, although the Malaysian domestic politics based on ethnicity, the problem is not as simple as it sounds, because at least two elements of conflicts are involved: (1) Malay versus non-Malay, and this mainly refers to the Chinese ethnic group, even though it may also refer to other ethnic groups; and (2) the conflict of the Malay with

- the other native groups, at the Malay Peninsula as well as Serawak and Sabah; see e.g. *ibid.*, 109-113.
9. Harold Crouch, "From Alliance to Barisan Nasional," and Judith Strauch, "The General Election at the Grassroots; Perspectives from a Chinese New Village," in *Malaysian Politics and the 1978 Election*, ed. Harold Crouch, Lee Kam Hiang and Michael Ong (Kuala Lumpur, Oxford University Press, Oxford, New York Melbourne, 1980), xiii 1-10 & 230.
 10. At first, UMNO agreed to establish what came to be known as the Alliance with the MCA (Chinese) and MIC (Indian), but the alliance could not obtain the majority in 1969. Therefore Tun Razak provide a new *Barisan Nasional*, which included *Gerakan* and PAS (Malaysian Islamic Party), DAP (non-Malay) and others, who in the past they were opposition parties; see *ibid.*, 1-6.
 11. For further explanation on ABRI's role, see e.g., J. Soedjati Djwandono, "The Military and National Development in Indonesia," unpublished paper (30 pp., 1990), Harold Crouch, *Militer dan Politik di Indonesia*, [Army and Politics in Indonesia], translated by Th. Sumarthana (Jakarta: PT Dharma Aksara Perkasa, published by Penerbit Sinar Harapan, 1986); see also Hidayat Mukmin, *TNI dalam Politik Luar Negeri: Studi Kasus Penyelesaian Konfrontasi Indonesia-Malaysia* [Army in the Foreign Policy: A Case Study in the Solution of the Problem of Confrontation] (Jakarta: Pustaka Sinar Harapan, 1991).
 12. Jusuf Wanandi, "The Correlations Between Domestic Politics and Foreign Policy," in Scalapino et al., *Regional Dynamics*, 61-62; see also idem "Indonesia-Malaysia Bilateral Relations," *Indonesian Quarterly* XVI, No. 4 (October 1988): 457; and idem, "Indonesia's Political Developments in 1992," *Indonesian Quarterly* XX, No. 4 (Fourth Quarter 1992): 369-375.
 13. (1) Tunku Abdul Rahman, 1951-70; (2) Tun Datuk Abdul Razak, 70-76; (3) 1976 Tun Abdul Razak died and was succeeded by Datuk Hussein bin Datuk Onn (a brother in law of Tunku Abdul Rahman); (4) in 1981 Dr. Mahathir Mohammad was sworn in as Malaysia's fourth PM; see Ahmad Kamar, *Malay and Indonesian Leadership in Perspective* (Kuala Lumpur, Petaling Jaya, Ahmad Kamar, Art Printing Works Sdn. Bhd., 1984), 41-42; see also Crouch, "Malaysian Politics," 15; and Ahmad, "Malaysian Foreign and Domestic Politics," 113.
 14. On the importance of this sameness of origin, see a.o. Tan Sri Mohd. Ghazali Safie, "Perspektif Sejarah Hubungan Indonesia-Malaysia: Sejarah, Masalah, dan Tantangan," [Historical Perspectives of Indonesia-Malaysia Relations: History, Problems and Challenge] in *Dialog Pemuda Indonesia-Malaysia II* [Second Dialogue of Indonesia-Malaysian Youth], Cisarua-Bogor, Indonesia, 17-19 January 1990, ed. Zainal Arifin and Ronald Nangoi (Jakarta: May, 1990), 46-59; see also idem, "Malaysia-Indonesia Relationship: Looking Back," paper presented at the Third Malaysia-Indonesia Colloquium, held in Bali, 9-12 December 1992.
 15. For further explanation, see Department of Information, Republic of Indonesia, *Indonesia 1987: An Official Handbook* (Jakarta: Department of Information, Directorate of Foreign Information Service, 1987), 40.
 16. See "Islam dan Identitas Negara," [Islam and State Identity] as a part of Juwono Sudarsono, "Perbedaan Pendapat di Bidang Agama, Etnis dan Ideologi di Negara-negara ASEAN," [Dissension of Religion, Ethnics and Ideology in ASEAN Countries] in *Masalah Keamanan Asia* [Security Problems in Asia] ed. Robert A. Scalapino, Seizaburo Sato and Jusuf Wanandi (Jakarta: CSIS, 1990), 298-300; see

- also Herberth Feith, *The Decline of Constitutional Democracy in Indonesia* (Cornell University Press, 1962). Attempts were even made through armed rebellion as was the case with the DI/TII insurgencies between 1974 and 1954 in West Java and South Sulawesi, as well as through constitutional and political actions as in the Constituent Assembly of 1958-59 and in the Provisional People's Consultative Assembly during 1966-68 session: see Wanandi, "Indonesia-Malaysia Bilateral Relations," 457.
17. Kamar, *Malay and Indonesian Leadership*, 39-40; see also Mohammad Abu Bakar, "Islamic Revivalism and the Political Process in Malaysia," *Asian Survey* XXI, No. 10 (October 1985): 1055.
 18. See Ahmad, "Malaysian Foreign Policy," 120; Harold Crouch, "The UMNO Crisis: 1975-77," in Crouch *et al.*, *Malaysian Politics*, 11-15; and Sudarsono, "Dissension," 290.
 19. In an intensive relationship between two close persons, such as husband and wife, the notion of intense relationship usually refers to two aspects, one which is "love" and another which is "hate".
 20. Firdaus Haji Abdullah, "Issues in Malaysia-Indonesia Relations," paper presented at the ASEAN Fellowship Seminar, Japan Institute of International Affairs, Tokyo, 20 August 1992, 2.
 21. See for example, Agung, *Indonesian Foreign Policy*, chap. 16; Mackie, *KONFRONTASI*; and Boyce, *Malaysia & Singapore International Diplomacy*, chaps. V and VI.
 22. Before the establishment of Federation of Malaysia, that country called "Malaya".
 23. For further explanation about these revolts, see e.g. Nazaruiddin Sjamuddin, *The Republican Revolt: A Study of Acehnese Rebellion* (Singapore: Institute of Southeast Asian Studies, 1985); Barbara Silars Harvey, *Tradition, Islam and Rebellion: South Sulawesi 1950-56* (Ph.D. dissertation), translated into Indonesian, *Pemberontakan Kahar Muzakhar: Dari Tradisi ke DI/TII* (Jakarta: Pustaka Utama Grafiti, 1989); and R.Z. Leirissa, *PRRI PERMESTA: Strategi Membangun Indonesia Tanpa Komunis* [PRRI PERMESTA: A Strategy to Develop Indonesia without Communism] (Jakarta: Grafiti Press, 1991).
 24. According to Shafie, Soekarno has suspected that Malaya was sympathy with the rebellion, because there was a blood affinity among the rebels and some Malay of Sumatran origin in the peninsula of Malaya, "Looking Back," 6.
 25. In addition, Soekarno did not like Malaysia because: (1) Malaya's attitude of abstaining from the voting at the UN on the problem of West Irian; (2) Malaya's sympathy for the PRRI and DI/TII revolts; (3) the acceleration of smuggling from the revolting areas to Singapore and Malaya; and (4) the difference of opinion between both states on regional security problems; see *ibid.*, 6-7; see Mackie, *KONFRONTASI*, 288.
 26. The Federation will cover Semenanjung Malaya, Singapore, Serawak and North Kalimantan. The inclusion of Sabah and Serawak was an effort for the sake of racial balance, especially between the Malay and the Chinese. For if only Singapore become part of Malaysian Federation, then based on the 1957 census results, the balance of population would benefit the Chinese group; see Alfian, *Tingkah Laku Politik di Asia Tenggara* [The Political Attitude in Southeast Asia] (Jakarta: LEKNAS-LIPI, 1970), 26-27; see also Gordon, *Dimensions of Conflict*, chap. III.

27. See for example, Boyce, *Malaysia and Singapore*, chaps. V and VI; see also Erella D. Solidum, *Towards a Southeast Asian Community* (Quezon City: University of Philippines Press, 1974), 19-21; J. Soedjati Djiwandono, "Indonesia's Relation with other Southeast Asian Countries," in *Southeast Asia in Transition: Regional and International Politics* (Seoul: The Institute for Far Eastern Studies, 1977), 156.
28. For the background of ASEAN establishment, see Solidum, *ibid.*
29. A.R. Sutopo, "Relations Among Indonesia, Malaysia and Singapore: From Confrontation to Collaboration and Re-alliance," *Indonesian Quarterly* XIX, No. 4 (Fourth Quarter, 1991): 333.
30. *Ibid.*
31. *Ibid.*
32. The two countries relations were coloured by diplomatic "tensions" when Malaysia built tourism facilities in the two islands while jurisdiction over these islands are still in dispute; see *Far Eastern Economic Review* (FEER), 20 June 1991, 20.
33. For the background of this problem, refer to the information of the Minister Coordinator of Politics and Security, Soedomo, published in *Suara Pembaruan*, 3 June 1991.
34. Source: *World Almanac 1992* as quoted by *Tempo*, 16 January 1993, 80.
35. According to Haji Ahmad, Malaysia's Malay leaders have been tolerant of the influx of Indonesian migrant workers whereas non-Malay leaders have been vocal in calling such transients "illegal immigrants"; on the other hand, Malay leaders have been more wary on non-Malay visitors such as Vietnamese refugees or potential residents with a Sinic background; see Ahmad, "Malaysian Foreign Policy," 110.
36. It is related to the Yamin's concept of the "Greater Indonesia"; on the anxiety concerning the ambition of great Indonesia, see Bernard A. Gordon, *Dimensions of Conflict in Southeast Asia* (Englewood Cliff, New Jersey: Prentice Hall Inc., 1986) especially chap. v.
37. According to Malaysia, there is always the problem of Jakarta "big brotherism" that in the Soekarno years resulted in the confrontation between 1962-66; see Ahmad, "Malaysian Foreign Policy," 112.
38. See Sutopo, "From Confrontation to Collaboration," 334.
39. HE Dato' Abdullah Zawawi Hj Mohamad, former Malaysian Ambassador to Indonesia, "Malaysia and Indonesia Bilateral Relations," paper presented at the Second Malaysia-Indonesia Conference, organised by ISIS and CSIS, in Penang, Malaysia, 11-14 December 1990, 1.
40. Djajoesman, "Malaysia and Indonesia Relations", 2.
41. ZOPFAN was at first Malaya's idea for neutralisation of Southeast Asia, mainly pressed by the intention of the English Labour Party Government under PM Harold Wilson to withdraw its troops from the Suez Canal after 1971. Besides, the Nixon Doctrine or Guam Doctrine also emerged in 1969, which wanted to end the presence and involvement of USA troops in Asia. The idea of neutralisation of Southeast Asia was meant to prevent a "void" less the withdrawal of these English and American troops be substituted by other large powers (meaning the Soviet Union); see J. Soedjati Djiwandono, "Aspek Politik dan Keamanan ASEAN," [The Political and Security Aspects of ASEAN], *ANALISA* XVI, No. 10 (October 1987): 910.
42. See Wanandi, "Domestic Politics and Foreign Policy," 66.

43. PTA entails a reduction of internal (intra-ASEAN) tariffs on selected commodity items, but the individual (ASEAN member) external (with non-ASEAN) tariffs are maintained. For further explanation, see M. Hadi Soeastro, "Prospects for Pacific-Asian Regional Trade Structures," in Scalapino et al., *Regional Dynamics*, 378, especially footnote no. 13.
44. For example, the different perceptions in founding intra-ASEAN economic cooperation, reflected in several debates concerning the formation of a free market, the treatment of preferential tariffs, joint cooperation, or industrial cooperation on the ASEAN level; see e.g. in Noordin Sopiee, Chew Lay See, and Lim Siang Jin, ed. *ASEAN at the Crossroad: Obstacles, Options and Opportunities in Economics Cooperation* (Kuala Lumpur: Institute of Strategic and International Studies, 1987). Malaysia's proposal on EAEG in the Fourth Summit Conference (Singapore, 1992) was revised to become EAEC (east Asia Economic Caucus), but this matter was only summarily mentioned in the 1992 Singapore Declaration; see *Kompas*, 4 February 1992.
45. Abdullah "Malaysia and Indonesia Bilateral Relations," 5.
46. PGRS is *Persatuan Gerakan Rakyat Serawak*, meanings United of Serawak Peoples' Movement; PARAKU is *Pasukan Rakyat Kalimantan Utara*, meanings North Kalimantan Peoples' Force.
47. A R. Sutopo, "Cooperation for SLOC Security in Southeast Asia: The Experience of ASEAN," in *Resources, Maritime Transport and SLOC Security in the Asia-Pacific Region*, ed. Dalchoong Kim (Seoul: Institute of East and West Studies, 1988), 175-91; see also Jusuf Wanandi, "Indonesia-Malaysia Bilateral Relations," 462-63.
48. In 1968, Indonesia's relationship with Singapore was politically at a much lower intensity than that with Malaysia, a.o. because of: (1) the execution of two Indonesian marines by Singapore, in spite of President Soeharto's request for postponement; (2) anti-Chinese sentiments in Indonesia, while the majority of Singapore's population are Chinese. This bad situation was then corrected by a closer network of private relations among political leaders, and followed by military relations and cooperation: (a) joint exercises in navy started in 1974, followed by Air Force in 1980; (b) in 1989, they built facilities for aerial target practice in Riau, and a centre for aerial shooting exercises; (c) Singapore was allowed to use the Army exercise in Baturaja for its armed forces; see Sutopo, "From Confrontation to Collaboration," 336.
49. This idea was expressed by Goh Chok Tong (then Premier Minister of Singapore), see *Straits Times* (21 December 1989). Generally that idea is called SIJORI; for further explanation on this matter, see Mary Pangestu, "Growth Triangle as a Model for ASEAN Economic Cooperation: An Indonesian Perspective," paper presented at the conference on "ASEAN Economic Cooperation in the 1990s," Singapore, 27-28 June 1991.
50. This kind of suspicion was not directly stated to Indonesia by the government of Malaysia, but was implied in opinions developing within Malaysia; *ibid*. The background of Malaysia's suspicions might be based on its attitude towards Singapore, since its independence. On August 31, 1957, the new premier Tanku Abdul Rahman denied a merger with Singapore for two reasons: (1) it would make the precarious balance between the Malay and Chinese ethnic group be disrupted, bringing the Chinese into the majority; (2) there was a great difference between the two countries, a.o.: (a) Malay was the national language of Malaysia, while the majority

of Singaporeans spoke Chinese; (b) Malaya had a constitutional monarch, while the Chinese were unlikely to pay homage to a king as head of state, let alone a Malay monarch; (c) Islam was the state religion of Malaya, and the Singaporean Chinese were hardly likely to accept that; see Arnold C. Brackman, *Southeast Asia Second Front: The Power Struggle in the Malay Archipelago* (New York: Praeger, 1966) 22.

19

Indonesia, Malaysia and the Indo-China Crisis: Between Scylla and Charybdis

JYOTIRMOY BANERJEE*

The complex and interlocking factors in Indochina became increasingly enmeshed in recent years in big power rivalry in the East Asia/Pacific area. With the collapse of Saigon on 30 April 1975, as well as further communist take-overs also in Laos and Kampuchea, it appeared that the long-cherished Vietnamese plan for a Hanoi-dominated Indochinese federation would at last become a reality. Although Hanoi had taken care not to identify itself too closely with Moscow as against Beijing, while the fighting against the United States was on, the long, historical Sino-Vietnamese suspicions towards each other resurfaced in the absence of the common 'imperialist' threat. China's take-over of the Paracel Islands in January 1974 from Saigon's forces was clearly seen as a pre-emptive move *vis-a-vis* Hanoi, which responded by occupying the Spratlys. Hanoi later alleged that long before its open border tension with China broke out in early 1979, the

* Lecturer, Department of International Relations, Jadavpur University, Jadavpur, Calcutta.

latter had encroached upon Vietnamese territory 'all along' the border involving six provinces during 1957-77.¹

Elsewhere, historically and even racially conditioned tension started brewing on united Vietnam's 660-mile border with Kampuchea.² The long animosity between the Khmers and the Vietnamese, which Sihanouk vehemently denied as ever having existed during his time and blamed Lon Nol for all its manifestations³, did not disappear in communist Kampuchea. The ethnic overlap between the two neighbouring nations, partly caused by the presence of a large number of North Vietnamese and Viet Cong forces in eastern Kampuchean 'sanctuaries' which had triggered Nixon's brief escalation into the 'Parrot's Beak' and the 'Fishhook' areas in mid-1970, further complicated the border situation. To add to the confusion, while Kampuchea-based communist forces from both parts of Vietnam fought the US and Saigon troops across the border, Lon Nol's April 1970 coup in Phnom Penh triggered a war between government troops and the anti-Lon Nol Khmers (both communist and non-communist) backed by the Vietnamese forces.

It is almost impossible to determine which side in the subsequent Vietnam-Kampuchea conflict started the 'provocations' that turned out to be so disastrous. Pol Pot's Phnom Penh appears to have been unduly aggressive, both domestically and externally, with the Khmer forces causing violence on Kampuchea's borders with all the neighbouring states (Vietnam, Laos and Thailand), as well as on the ethnic Vietnamese residents in that country. At the same time, it seems that Hanoi took the provocations as an opportunity to use the chaotic scene (which included a refugee problem) to complete its old dream of forming an Indochinese federation, despite the formal decentralization of the revolutionary forces in Indochina as early as February 1951.⁴ Its influence on Vientiane was already considerable, not least due to the port of Haiphong serving the land-locked Laotian hinterland. All it now needed to do was to replace the unpopular regime in Phnom Penh, whose activities seemed to be playing into Hanoi's hands.

Beijing's incitement to the Pol Pot government, repeatedly alleged later by Soviet and Vietnamese media, further strained its relations with Hanoi. Moscow refrained from taking sides overtly in the Kampuchea-Vietnam dispute till date 1977 to early 1978. Through most of 1977, Moscow remained overtly sympathetic to both and blamed, for instance, the periodic armed encounters on the Thai-Kampuchean border

squarely on Bangkok.⁵ Later, Moscow would blame Phnom Penh, for allegedly driving out and massacring 'tens of thousands' of ethnic Vietnamese domiciled in Kampuchea right from the early days of Vietnam's unification.⁶ Soviet sources note that Phnom Penh-Hanoi relations started deteriorating particularly since April 1977, when Phnom Penh allegedly mounted its anti-Vietnam propaganda and did not positively respond to several offers to hold talks starting two months later.⁷ In early and mid-May 1977, Soviet Defence Minister Ustinov met his Vietnamese and Laotian counterparts, Vo Nguyen Giap and Khamtay Siphandon, respectively. Present at the meeting with Giap was Brezhnev. The outcome was seen on 18 July, when on the eve of its entry into the UN, Hanoi signed a Friendship Treaty with Vientiane to strengthen their 'close and diverse' ties.⁸ On 6 June other high-level meetings between the Soviet and the Vietnamese sides took place in Moscow.⁹ But all this did not prevent the Communist Party of the Soviet Union (CPSU) from greeting Phnom Penh in a message as late as October. The Soviet press also refuted that month western charges against the 'tyrannical methods' of the Pol Pot regime as being 'without proof'.¹⁰

Moscow's tilt towards Hanoi in the latter's dispute with Phnom Penh seems to have become decisive one month later, during the 60th anniversary of the October Revolution. Le Duan, the Vietnamese party secretary, used his presence in Moscow on the occasion to confer with Brezhnev on 4 November.¹¹ From the end of December the Vietnam-Kampuchea border situation grew worse, despite Le Duan's earlier visit to Beijing in November—the first such visit since 1975.¹² In January 1978, there followed Hanoi's appeal to the Soviet *bloc* to help 'restore friendship' between the two Indochinese neighbours.¹³ The SOS was to have far-reaching consequences, with Indochina getting increasingly entangled in the larger Sino-Soviet rivalry. Responding to it, a Soviet delegation under Politbureau member Grigory Romanov arrived in Hanoi on 15 February to assure the latter of Soviet support.¹⁴

Meanwhile the Hanoi-Beijing 'contradictions were surfacing. On 10 September 1975, within months after Saigon's collapse, the Provisional Revolutionary Government in South Vietnam had decided to confiscate property of the 'comprador bourgeoisie', who were mostly ethnic Chinese (Hoa), followed by further 'anti-comprador' step next year.¹⁵ On 23 March 1978, it was decided to wind up trade by all types of capitalists and 'shift' them to production. These apparently Marxist measures acquired sinister racial overtones against the background of increasing rumours among the Hoa that since Beijing had backed Phnom Penh

against Hanoi, they would come to grief if they stayed on in Vietnam. This fed the growing Sino-Vietnamese tension. On 1 May the red-letter day for international working class solidarity, Beijing Radio threw down the gauntlet to Vietnam by publicizing the *en masse* Hoa emigration which had been taking place.¹⁶ The same month, President Carter's National Security Adviser Zbigniew Brzezinski, considered a 'hawk' by Moscow, paid a visit to Beijing.

There followed China's troop concentration along its border with Vietnam, the massing of naval forces near Hainan Island, and cutting off of aid to Vietnam.¹⁷ In response, Hanoi asked for entry and was admitted into the CMEA at its 32nd session in Bucharest (27-29 June). The political implications of this were not lost on China.¹⁸ Towards the end of July a Kampuchean military deligation paid a visit to Beijing.¹⁹ Sino-Vietnamese talks, which were started next month, were broken off in September.²⁰ It was at this juncture that Vietnamese Premier Pham Van Dong visited the ASEAN states to plead Vietnam's case. On 3 November, the Soviet-Vietnamese Friendship Treaty was signed. China, which had concluded a Peace Treaty with Japan on 12 August, containing an anti-hegemony clause, must have taken the Friendship Treaty as a direct challenge, even provocation, especially since such a treaty had not been signed by Hanoi with Moscow even at the height of US intervention in Vietnam.

Meanwhile, other significant international trends developed, especially in Asia and Africa. The Moscow press noted the rapid evolution of two alignments of international power in Asia and the Pacific, one centered around Moscow and the other around Beijing, the latter being buttressed by the West, chiefly the US.²¹ A demonstration of the latter alignment came in Carter's TV announcement on 16 December of Sino-US normalization starting 1 January 1979. On 7 January, Phnom Penh fell to Hanoi-backed KUFNS (Kampuchea United Front for National Salvation) forces. This was hailed by Moscow.²² Subsequently, a 13-nation-backed Security Council resolution, calling for ceasefire and foreign troop withdrawal from Kampuchea, was torpedoed by Moscow's 11th veto on 15 January.²³ Next month, the Chinese invasion of Vietnam's northern border areas followed.

Against such a background of on-going crisis that has played into the US-Soviet-Chinese triangle, Jakarta and Kuala Lumpur, more than the other ASEAN states, have been having a rough time in ensuring their security without at the same time tarnishing the neutralist and non-military image of ASEAN, which these two capitals in particular

profess to cherish. Somewhat belatedly, as will be seen below, Jakarta has admitted a political role for ASEAN in recent years.²⁴ That grouping was intended to be a purely socio-economic-cultural organization at the time of its foundation in 1967.

With US intervention in Indochina still on, the ASEAN declared in 1972 as its aim the creation of a 'zone of peace, freedom and neutrality' in South-east Asia.²⁵ After Indochina turned communist in 1975, the first ASEAN summit was held in Bali on 24 February 1976. It evolved guidelines for future ASEAN co-operation, as embodied in the 'Declaration of ASEAN Concord', and provided for the 'continuation of cooperation on a non-ASEAN basis between the member states in security matters in accordance with their mutual needs and interests'.²⁶ Indonesia's anxiety about a possible misinterpretation of ASEAN as a military pact was reflected at the end of the year in former Foreign Minister (now Vice-President) Adam Malik's statement in Jakarta. On 2 November, as Indonesia signed a nuclear agreement with Bonn, Malik referred to the then Thai Foreign Ministers' comments on the nature of military co-operation within ASEAN and reiterated that ASEAN was not a military pact, although exchange of security information and the conduct of joint military exercises were to be continued among its member states.²⁷ The perceived communist threat looming large on the horizon of South-east Asia led Malaysia two days later to fully support at the UN the East Timorese 'people's' alleged decision to integrate with Indonesia.²⁸ Jakarta had decided on 29 June that year to integrate East Timor as the 27th province of Indonesia following the leftist Fretinlin's declaration of a People's Democratic Republic of East Timor on 28 November 1975, and its own military intervention there early next month. Indeed, with Jakarta's *konfrontasi* policy with Malaysia long ended and its proclamation of the principle of national 'resilience', Malaysia perceived the intervention as forestalling a pro-Soviet or pro-Chinese enclave rather than as Indonesian irredentism.²⁹

During 6-14 December 1976, Malaysian Defence Minister Haji Hashim paid a visit to Indonesia to tone up bilateral military co-operation.³⁰ Part of the envisaged programmes for such co-operation would be the standardization of weapons as well as Jakarta-Kuala Lumpur co-operation in manufacturing light arms.³¹ While the Malaysian Defence Minister was present (6-14 December), the then Thai Premier Thanin Kraivichien also paid a visit to Jakarta (10-13 December).³² On the eve of his arrival, Adam Malik again voiced Indonesia's belief that ASEAN should not become a military pact. He

also warned against interference in South-east Asia by outside powers,³³ presumably in support of the Thai visitor representing a state that was to face increasing communist pressure from across its 500-mile border with Kampuchea. Such pressure was, of course, partly the result of the historic dispute among Thailand, Kampuchea and Vietnam over 13 provinces.³⁴ The Thai Premier acknowledged that ASEAN was no military pact but placed his emphasis on the need to set up safeguards against the communist threat. Thailand was already busy taking necessary precautions, he added. Although Indonesia's official policy was to soft-pedal the public airing of resentment at the communist take-over in Indochina, that did not prevent Admiral Sudomo, Chief of Staff of Command for the Restoration of Security and Order, from issuing a public warning against such take-over on 24 January 1977.³⁵

Several months later, Indonesia co-operated with Thailand during 25-27 August in conducting joint naval exercises in the Java Sea under Indonesia's Rear Admiral Adang Safaat.³⁶ Next year Malaysia was to follow with joint combing with Thailand of communist guerillas around the southern town of Betong in operation *Selamat-Sawadi*.³⁷ On 28 September 1977 the Chief of Staff of Malaysia's Armed Forces, General Tan Sri Ibrahim, paid a visit to Jakarta, expressed satisfaction at the on-going military co-operation between the two ASEAN states, and reiterated the oft-expressed goal of standardization of arms, a goal which seemed unfulfilled over the next two years.³⁸ Part of ASEAN co-operation binding Jakarta and Kuala Lumpur further is the submarine cable network that is to be completed by 1982-83.³⁹

In June 1978 President Suharto met Malaysian Premier Dautk Hussein Onn on the eastern Malaysian island of Labuan to discuss internal security problems, including the one posed by the Moro National Liberation Front (MNLF) in the southern Philippines.⁴⁰ When in fall that year Vietnam's Premier Pham Van Dong toured the ASEAN states, he pledged non-interference in the internal affairs of other states. His hosts also made it clear that they were not taking sides in Vietnam's conflict with its neighbours.⁴¹ Three months later, in early January 1979, Vietnam invaded Kampuchea. Immediately, on 9 January, the Jakarta Declaration offered ASEAN's good offices to help solve the knotty issue of Kampuchea and the problem of refugees. On 12 January, the Indonesian and Malaysian Foreign Ministers conferred with their other ASEAN colleagues (except Romulo of the Philippines who was sick) in Bangkok to review the situation subsequent to the fall of Phnom Penh. Although Singapore's Foreign Minister S. Rajaratnam was

characteristically outspoken in assessing the Indochina situation, the statement issued in the wake of the meeting reflected the moderating influence of Jakarta. Hanoi, which had by this time lost credibility in the eyes not only of the ASEAN states but also of Rumania and Yugoslavia and in the UN, was mentioned in the preamble but not in the main clauses. The statement was tough, asking for withdrawal of foreign troops from Kampuchea, but it fell short of towing Beijing's line that Vietnam was Moscow's stooge.⁴² In June Indonesia hosted another ASEAN meeting in Bali where it joined the others to pledge 'firm support' for Thailand, ASEAN's 'frontline state'.⁴³

The rapidly growing refugee problem was taken up by the Geneva international conference on Indochina during 20-21 July, attended by 50 nations. The number of refugees had reached about 400,000 by that time. While Hanoi promised to take steps to control the exodus of the 'boat people' and establish processing centres on its territory as suggested by Kuala Lumpur,⁴⁴ and although offers of help by western nations were forthcoming, Bangkok remained unhappy over the continued problem of the presence of 200,000 Kampuchean refugees in Thailand, some of whom were thought to be spies.⁴⁵ Malaysia discouraged China from turning the conference into a polemical exercise against Vietnam.⁴⁶ Neutrality notwithstanding, Kuala Lumpur's intense suspicion of the 'boat people', who were mostly ethnic Chinese, was seen in that it did not change its policy of driving them away even after the Geneva meeting.⁴⁷ Jakarta, however, helped Kuala Lumpur by providing the island of Pulau Gulang as a processing centre, which was welcomed.

In the middle of August, the Indonesian and Malaysian foreign ministers joined their Singapore counterpart at Kuala Lumpur to consolidate the results of the Bali meeting and the Geneva conference, and to work out a joint political position for the Havana non-aligned conference scheduled for early September. For the first time they appealed openly to Vietnam on 16 August to keep South-east Asia free of external influence.⁴⁸ They also decided to ask the UN General Assembly in September to debate Kampuchea. The apparent ascendancy of direct and indirect Soviet power in South-east Asia hardened the three foreign ministers' decision to oppose at Havana any attempt (by Cuba) to steer the non-aligned movement towards a particular bloc (Soviet), and to oppose Heng Samrin's claim to the Kampuchean seat at the meeting.⁴⁹ As Malaysian Foreign Minister Ahmed Rithauddeen explained during his Brazil-tour, it was not that the ASEAN five were enamoured of the

Pol Pot regime; it was rather a matter of principle that caused them to oppose Heng Samrin.⁵⁰

Security continued to dominate regional thinking of the ASEAN states. Suharto conferred with Marcos at Ternate, the Philippines in August, close upon the heels of exchange of visits by their respective navy chiefs.⁵¹ The concern for maintaining the 'purity' of non-alignment seemed to dominate Indonesian thinking, however. On 16 August, in the course of his National Day address to the Indonesian House of Representatives, Suharto insisted that the non-aligned states must 'purify their spirit and goals', i.e. revert to the original idea of genuine non-alignment rather than veer to one *bloc* or another.⁵² This theme he repeated in Bina Graha barely a week before the Havana non-aligned conference began.⁵³ As he elucidated on 16 August: 'What we want is that countries in this region of ours, want and can hold firmly to the principles of the good neighbour policy, of mutual respect without interfering in each other's internal affairs and of co-operation to raise the prosperity of their respective peoples. In this way, the Southeast Asian region can be established as a zone of peace, freedom and neutrality.' The theme of 'purity' of non-alignment again found expression in Suharto's talks with Singapore's Premier Lee Kuan Yew on 18 September 1979.⁵⁴

At the preparatory stage of the Havana conference that was to be attended by 88 non-aligned states and 7 newcomers, Jakarta opposed Cuba's attempts to give the non-aligned movement a pro-Soviet orientation. When the conference began, Jakarta and Kuala Lumpur presented a consolidated front along with Singapore to support the seating of Pol Pot's government as representing Kampuchea while opposing Heng Samrin's government.⁵⁵ Kuala Lumpur even accused Cuba of 'unseating' an established non-aligned member, i.e. the Pol Pot government.⁵⁶ The staunch opposition of Jakarta and Kuala Lumpur to Heng Samrin neutralized attempts by Cuba and other pro-Soviet elements at Havana to indirectly support Soviet power in Indochina. While the summit Declaration took an anti-US line, it stopped short of openly identifying non-alignment with Moscow's cause. As for the seating of Kampuchea, an *ad hoc* committee was appointed to study it.⁵⁷ The joint position of the three ASEAN states so irked Cuba that it included the East Timor issue in the conference agenda to embarrass Jakarta.⁵⁸ Stressing his penchant for 'purity' and taking a dig at Cuba as well, Suharto stated in an interview with Yugoslavia's *Tanjug* that attempts to use the non-aligned movement for divisive issues must be

resisted. Big powers were likely to continue to pursue their strategic interests in South-east Asia, 'whether we like it or not', and he recommended that the local states use such big power presence to serve their national interests and freedom,⁵⁹ in a classic demonstration of manipulation of a multiple balance.

Meanwhile, between mid-August and November, debate in the UN on Kampuchea continued against the background of Thai-Kampuchean border skirmishes. On 17 August, Indonesia and Malaysia had joined other ASEAN member states to file a resolution in the UN—this time in the General Assembly, an earlier one, as already seen, having been vetoed in the Security Council—asking for withdrawal of all foreign troops from Kampuchea.⁶⁰ In anticipation Hanoi, backed by several states including Afghanistan, Laos, Angola and Nicaragua, had already filed its own resolution seeking to freeze the *status quo* in that country. In filing their resolution, Jakarta and Kuala Lumpur were aiming to boost Thai morale, which appeared shaky in the face of increasing prospects of a dry season offensive to be launched by Hanoi to destroy the pockets of Pol Pot forces located in the Thai-Kampuchean border area. Jakarta's concern for 'real' non-alignment as linked to security was fully shared by Kuala Lumpur, as seen, for instance, in the communique on talks between Malaysian Foreign Minister Rithauddeen and his West German counterpart Hans-Dietrich Genscher.⁶¹ When China attacked Vietnam in February 1979, Malaysia voiced its disapproval while admitting that the invasion might have 'a salutary effect on Vietnam'.⁶² Concern for security was further reflected in a statement by Malaysia's Defence Minister Datok Taib Mahmud on 15 September, which also showed Kuala Lumpur's unabated suspicion of Vietnamese refugees as a potential fifth column, even though Hanoi had controlled the exodus following its pledge at Geneva.⁶³ The minister explained that both his country and Indonesia were keeping a close watch on the factors that could affect their neutrality and security. 'This is because we share common borders and fight common enemies who are the communist terrorists.' He was referring to the latter's presence along the common border on the island of Borneo.⁶⁴ At the tenth Indonesia-Malaysian border committee meeting, chaired by Malaysia's Home Affairs Minister Ghazalie Shafie, the latter stated that security co-operation between the two countries should warn other powers with ill-intentions towards them.⁶⁵ The following month, Shafie observed that he was 'extremely' satisfied with the results of the Indonesian-Malaysian joint military

exercise codenamed *Kekar Malindo IV*, which lasted 6 days and was designed to test common military communications. He also laid out the prospects for co-operation in police communications as well as in patrolling of the Straits of Malacca.⁶⁶ Next month, Golkar President Sugiharto reciprocated Malaysian sentiment by declaring that Jakarta and Kuala Lumpur were prepared to meet any threat from the north.⁶⁷

On 21 September the 34th General Assembly session at the UN rejected Vietnam's bid to oust Pol Pot's delegation from Kampuchea's seat by 71 votes against 35 in favour and with 34 abstentions.⁶⁸ This was a success for Jakarta and Kuala Lumpur as well as the other ASEAN states. As both the Indonesian and Malaysian Foreign Ministers reiterated in the third week of October, their respective countries were to go on insisting that Hanoi vacate Kampuchean territory.⁶⁹ On 15 November, the two South-east Asian states scored even greater success. The General Assembly adopted their call for immediate withdrawal of all foreign troops from Kampuchea with 91 votes in favour, 21 against and with 29 abstentions.⁷⁰ Vietnam and its allies had suffered earlier another setback when the General Assembly, this time acting on Kuala Lumpur's proposal, had voted 82 to 32 (with 23 abstentions) to give priority to the draft on Kampuchea backed by the ASEAN capitals over those submitted by Vietnam and India separately.⁷¹ The *coup d'grace* by Kuala Lumpur and Jakarta was delivered when the General Assembly having adopted their resolution on 15 November, further decided to reject Hanoi's draft altogether (with 62 votes in favour, 36 against and 38 abstentions). On 16 November, understandably enough, Hanoi rejected the UN resolution on Kampuchea.⁷²

In early October, there was news that Thai Premier Kriangsak Chomanan would visit other ASEAN capitals to hold consultations on Indochina against the background of the apparently imminent dry season offensive by Hanoi in Kampuchea, which was expected to generate 100,000 fresh refugees into Thailand.⁷³ So great was the suspicion and fear of the ASEAN states regarding the expected offensive, and Moscow's role in it, that Jakarta had refused permission a few months earlier to goodwill visits to Indonesia by Soviet naval vessels, and on 18 September Bangkok had followed suit, preferring to continue to welcome US Seventh Fleet units instead at Pattaya.⁷⁴ In early October, Bangkok clamped tight controls on Soviet 'cargo' flights over Thai territory to Veitnam,⁷⁵ even though at least 10 unauthorized overflights

were nevertheless made. Since March, flights by Soviet transport aircraft with destinations in Laos and Vietnam had dramatically increased. While Aeroflot was allowed to operate three flights per week into Laos and Vietnam and return, by mid-1979 Moscow had asked such flights to be increased to 50 per month. The aircraft, so claimed Moscow, were carrying textiles.⁷⁶ According to estimates, such cargo accounted for part of at least \$3 million worth of military aid on an average day which Hanoi received to sustain its military effort.⁷⁷ On 15 October, with Thai forces put on full alert and US arms pouring into Thailand and Malaysia,⁷⁸ the Thai Premier accused Hanoi of making verbal threats,⁷⁹ perhaps partly to prepare other ASEAN member states, especially Jakarta, towards more open condemnation of Vietnam. For a while it seemed the Jakarta might tilt towards the Thai standpoint under the pressure of events. Statements emanated from political leaders in that capital indicating willingness to resume ties with Beijing. This was a major policy shift since China was suspected of engineering the abortive 1965 *coup* in Indonesia. But it was now the chief opponent of the Hanoi-Moscow axis.⁸⁰ The statements came against the background of a week-long joint exercise by Indonesian air units with Malaysian counterparts, codenamed *Elang-Malindo V*.⁸¹ With the next round on the Thai-Kampuchean border looming large and Hanoi's troop concentration there reaching 100,000 by early November, a report circulated in Bangkok that ASEAN defence ministers would soon get together to consult on Indochina with a view to pooling their military resources.⁸² Even if a secret understanding among ASEAN member states had been reached on such an unprecedented meeting, presumably on Thai prompting, the revelation caused much embarrassment in Kuala Lumpur and Jakarta.

On 7 November, Kuala Lumpur denied its plausibility and observed that no such ASEA meeting at defence ministers' level had been held so far.⁸³ Kuala Lumpur's embarrassment may partly be explained because of on-going programmes of military co-operation with Thai authorities. A high-level military delegation under the Chief of the Armed Forces Staff, General Tan Sri Mohammed Sany, was to leave for Thailand shortly to study the latter's sensitive eastern border; the visit was labelled as 'routine' and in reciprocation of Thai visits as part of joint military exercises.⁸⁴ But a desperate Bangkok was in no mood for entertaining scruples about ASEAN being a military organization. On 14 November the Thai Ambassador in Manila reiterated that a defence ministers' conference would be held before the year was out. Voicing his country's

anxiety, he added that it was high time that ASEAN now discussed military and security matters, beyond its traditional economic concerns.⁸⁵ He was backed up by his premier who reasoned that an ASEAN defence ministers' meeting would be quite in line with ASEAN co-operation. 'I don't understand why ASEAN Defence Ministers cannot meet when we have already met to discuss various matters such as fishing, petroleum and minerals. It would not be strange', said a Radio Thailand broadcast quoting Chomanan on 16 November.⁸⁶ Such Thai statements were not meant to reassure Kuala Lumpur's or Jakarta's (especially the latter's) sensibilities on the non-military nature of ASEAN.

Lest Thai paranoia tarnish the 'purity' image of ASEAN, as cherished by Jakarta, Adam Malik went on record on 19 November to maintain that any suggestion regarding ASEAN states uniting against Vietnam was wrong. The ASEAN states did not seek foes although they insisted that Vietnam vacate Kampuchean territory.⁸⁷ Nine days later Foreign Minister Mokhtar Kusumaatmaja repeated the theme to drive home the importance of ASEAN's neutrality.⁸⁸

With the latest round of crisis in Afghanistan where Soviet machinations were becoming transparent at the turn of 1980, another source of embarrassment developed for Jakarta's conception of the ASEAN. Shortly after a Tass accusation of China's hegemonistic policy in Asia,⁸⁹ Chen Xinren, the Chinese Ambassador in Manila, stated on 23 November that Beijing would provide military aid to Thailand, if the latter were attacked by Vietnam. Similar support to the other ASEAN states would also be forthcoming upon request. He then added that Chairman Hua had accepted 'with great pleasure' invitations to visit the ASEAN states.⁹⁰

Jakarta's caution on strict neutrality on the Indochina conflict caused some irritation in Kuala Lumpur, not to speak of Bangkok. When in November, before the UN vote on Kampuchea was taken, Kusumaatmaja denied that his Malaysian colleague Rithauddeen was scheduled to visit Hanoi, the latter responded by saying he would visit Hanoi whatever the result of the forthcoming UN voting, and did not hide his astonishment at his Indonesian colleague's denial.⁹¹ Again, when on 29 November Thai Foreign Minister Update Pacharyangkun stated that Bangkok would propose holding a special foreign ministers' meeting to discuss Kampuchea as a follow-up of the UN resolution earlier that month, Kusumaatmaja responded that Jakarta would 'study' the proposal. Rithauddeen, however, announced almost at the same time that

the ASEAN foreign ministers would meet in December in response to Bangkok's proposal.⁹² Jakarta's transparent reluctance to act on the latter stemmed from fear that it might be interpreted as 'blowing up' the recent success of the ASEAN states over Hanoi in the UN on the Kampuchean problem.⁹³ While Jakarta gave in on the Thai proposal, Kusumaatmaja reminded his ASEAN colleagues on 13 December, just before he left for the meeting in Kuala Lumpur, that the meeting should stick to the Bangkok resolution of January 1979 and should not take sides in the Indochina conflict.⁹⁴ With Indonesia's own Adenan mission to Hanoi⁹⁵ achieving little else besides agreement to continue the dialogue, the Kuala Lumpur meeting on 14 December decided to continue consultations with Hanoi. Rithauddeen, scheduled to visit that capital, was authorized to inform the latter that the ASEAN states were prepared to open a dialogue on Indochina. The participating foreign ministers also agreed with the Thai plan of requesting the UN Secretary-General to send a team of observers and to increase the number of UN relief personnel along the Thai-Kampuchean border.⁹⁶ Apparently taking notice of the British decision shortly before to derecognize the Pol Pot regime, which in its turn partly caused the latter's replacement by Khieu Samphan as premier of the regime operating from the Kardamom mountains,⁹⁷ the communique stressed that while the foreign ministers had reservations on the Pol Pot regime, they continued to recognize it, its credentials having been accepted by the 34th session of the UN General Assembly.

Next day, upon his return to Jakarta, Kusumaatmaja asserted the familiar Indonesian theme that South-east Asia should rid itself of big power politics, that ASEAN did not want to become a 'play ball' for other powers, and that this was in Vietnam's own interests. Upholding the clause of neutrality, he went on to say that although attempts were being made to draw ASEAN to a certain side and contrapose it to Vietnam, the impending Rithauddeen mission should be seen as ASEAN's sincere attempt to find a solution to the Kampuchea problem.⁹⁸ Jakarta's endeavour to maintain neutrality on the Indochina conflict seemed remarkable in view of the tension between that capital and Hanoi that surfaced in early December. Reacting to a statement by Vietnam's Ambassador Trinh My in Jakarta, Kusumaatmaja had observed on 4 December that the Natuna islands, lying 600 km south of Vietnam, unmistakably belonged to Indonesia, whose national oil company, Pertamina, had a \$62 million, 10-year production-sharing contract on oil around Natuna with US-based Marathon Petroleum.

Jakarta was worried of Hanoi's claim to the islands and had dispatched several warships to patrol the oil rigs set up in their vicinity.⁹⁹ Two days later the foreign minister explained to the Parliament (DPR) that oil exploration around Natuna would not be halted and that Hanoi was yet to approve Jakarta's 1978 proposal on the continental shelf around them.¹⁰⁰

Shortly after the Kuala Lumpur foreign ministers' meeting, which was attacked by Hanoi as 'crude interference' in Kampuchea internal affairs, Vietnam, which did not diplomatically recognize ASEAN, asked Rithauddeen to postpone his Hanoi-visit scheduled for January 1980, and refused to receive him altogether in his capacity as ASEAN's representative. To this Thai Premier Chomanan responded on 20 December that Bangkok would insist on the Malaysian Foreign Minister's reception in Hanoi as ASEAN's representative.¹⁰¹ As 1979 went out, Kusumaatmaja noted that ASEAN had transcended its purely socio-economic-cultural role to assume in addition a political one.¹⁰² When Soviet intervention in Afghanistan took place, Suharto declared on 7 January 1980 that Jakarta wanted the withdrawal of foreign troops from that country in keeping with its policy.¹⁰³ This triggered comments by Soviet Ambassador Spshedko in Jakarta which were found to be provocative by DPR Speaker Daryatma; he suggested that the ambassador read Indonesia's history of liberation well.¹⁰⁴

On 8 January 1980 the foreign ministers of Vietnam, Kampuchea and Laos, while celebrating the first anniversary of the Heng Samrin government of Kampuchea, proposed signing of non-aggression treaties with the ASEAN states and Burma.¹⁰⁵ The proposal, coming right on the eve of Rithauddeen's Hanoi-visit (9 January), was meant to test ASEAN's reaction. The Rithauddeen mission, which succeeded in taking place, did not produce much result. Hanoi was hardly likely to withdraw its forces from Kampuchea just for the asking. Like the Adenan mission, Rithauddeen succeeded only in making Hanoi and Phnom Penh agree to hold a constant dialogue with ASEAN states to find peaceful solutions to regional problems. Hanoi's leaders also promised respect for Thai territorial integrity, a point somewhat sceptically welcomed by Thai Foreign Minister Upadit, who added: '...but we still have to remain alert and vigilant'.¹⁰⁶

The Soviet intervention in Afghanistan reinforced the ASEAN states' insecurity and made a mockery of ASEAN principle of non-intervention in the internal affairs of another country. It also showed the continued rise of Soviet power in Asia. The ASEAN and the EEC foreign ministers thereupon got together in Kuala Lumpur on 8 March 1980 to bring out a

joint declaration on world political questions. This expressed their 'great worry' over 'the open, armed intervention by foreign powers' against the two *bloc*-free states of Asia, and mentioned the 'continued Vietnamese intervention in Kampuchea' (as well as the Soviet one in Afghanistan). They regretted 'the denial of the right to self-determination for the peoples of Kampuchea' (and Afghanistan) and expressed the desire of the creation of a truly independent and neutral Kampuchea by means of withdrawal of 'foreign troops' from that country. After putting out the appeal to hold an international conference on Kampuchea, the foreign ministers recognized the increasing political role of the ASEAN, whose unity of purpose was crucial to turning South-east Asia into a zone of peace, freedom and neutrality.¹⁰⁷

Any judgement at present on the foreign policies of Jakarta and Kuala Lumpur in relation to neutrality-linked security for South-east Asia must at best be tentative since ASEAN, led by these two capitals, is still emerging in its political role under the pressure of events, and since the security environment in South-east Asia remains highly charged. India's recognition of the Heng Samrin government in July 1980 has not helped mitigate the insecurity of the ASEAN states. One may venture into some theorizing to suggest that the proximity to, and distance from, the crisis-ridden Indochina helps shape the attitude of the respective ASEAN member states towards neutrality-linked security. Thailand, ASEAN's 'frontline' member, has shown little enthusiasm over neutrality and has understandably given topmost priority to security. Malaysia, also facing potential danger but less so than Thailand, has endeavoured to maintain neutrality in the Indochina conflict—while not really hiding its distrust of Vietnam—but at the same time paying a great deal of attention to security. Its defence budget for 1989 shot up by 52 per cent over that of 1979 to reach \$ 1.89 billion.¹⁰⁸ Indonesia, being an offshore archipelago-state, has not been under such degree of security pressure as Thailand and Malaysia. Hence, it has been able to keep up its neutralist stance while co-operating with other ASEAN states in security matters. Singapore has been the most outspoken ASEAN state against the Moscow-Hanoi axis despite the distance: this is perhaps explained by its extensive and successful trade connections with the non-communist world and China.

Given the parameters of a variety of difficulties confronting the ASEAN five both in their relations with outside powers as well as among themselves,¹⁰⁹ the latter have done so far remarkably well in putting up a unity of purpose in political and security matters of common concern. Uneasiness over rising Soviet (and Vietnamese) power is juxtaposed to

suspicion of the giant neighbour in the north—China—not least due to the presence of 18 million ethnic Chinese in the five ASEAN states. Disappointment over Japan's business-guided, multi-directional foreign policy is balanced by suspicion of the ex-colonial nation's political and military potential.¹¹⁰ The ASEAN five maintain important trade and other links with the USA and increasingly with Western Europe, and despite all the exhortations on neutrality, Indonesia and Malaysia do not appear to be opposed to an increase in western, especially US, power in South-east Asia to the extent that balances off Soviet-east Asia to the extent that balances off Soviet preponderance. In fall 1979, the US Congress for the first time authorized more funds for military aid to Indonesia, Malaysia and Thailand than the Carter Administration had asked for. It would seem that Jakarta and Kuala Lumpur can attain their cherished ideals of peace, freedom and neutrality by operating and manipulating the multiple balance among the outside powers which are playing for strategic stakes in South-east Asia.

NOTES AND REFERENCES

1. Socialist Republic of Vietnam (SRV) Foreign Ministry memorandum of 14 February 1979 in *Vietnam Information Bulletin*, SRV Embassy, 8 xix, 21 February 1979, New Delhi, p. 1.
2. For the quarrel between the communist regimes in Phnom Penh and the SRV, see Sheldon W. Simon, 'Conflict in Indochina', *Problems of Communism*, 5, xxvii, September-October 1978, pp. 20-36.
3. For details, see Norodom Sihanouk, *My War with the CIA*, Pelican, 1974.
4. It was decided upon at the Communist Party of Indochina's Second Congress, February 1951. Yuri Antoshin, 'On the New Path', *New Times (NT)*, 44 Moscow, October 1977, pp. 20-21.
5. See, for instance, Y. Antoshin, 'Democratic Kampuchea: Two Years Later', *International Affairs (IA)*, 5, Moscow, 1977, p. 69.
6. 'The Events on the Vietnamese-Kampuchean Border', *NT*, 3 January 1978, pp. 8-9.
7. Note 6.
8. *NT*, 20, 22, May 1977, p. 2 respectively; 30 July 1977, p. 2; Y. Mikheyev, 'Laos: The Road to Socialism', *IA*, 2, 1979, p. 32.
9. Pham Van Dong and Truong Chinh were in Moscow, June and August, respectively. *NT*, 24, June 1977, p. 2; 34, August 1977, p. 2.
10. Note 4, p. 21.
11. *NT*, 46, November, 1977, p. 2.
12. *NT*, 48, November, 1977, p. 2.
13. Note 6, p. 9.
14. I. Nikolayeva, 'Ignoring Vietnam's Goodwill', *NT*, 9, February 1978, p. 6 (see also p. 2).

- 15 E. Kobalev, 'United Vietnam on the Path to Socialism', *IA*, 9, 1976, p. 92.
- 16 'Let US Preserve Vietnam-China Friendship', *Vietnam*, SRV Embassy, New Delhi, 2, xix, June 1978.
- 17 *NT*, 23, June 1978, pp. 9-10; A Usvatov, 'Anti-Vietnam Campaign', *NT*, 24, June 1978, p. 16; Hanoi Foreign Ministry Statement, Note 16, pp. 24-25; China's Aid cut-off was announced on 9 June 1978. A. Pin, 'Great Power Chauvinism', *NT*, 25, June 1978, p. 16; Sheldon, *op. cit.*, p. 34.
- 18 I. Trofimova, 'Peking Perfidy', *NT*, 29, July 1978, pp. 16-17 (see also p. 2); *NT*, 51, December 1978, p. 2.
- 19 *The Statesman (S)*, Calcutta, 23 July, and 1 August 1978, p. 5, respectively.
- 20 Vietnam's Foreign Minister Nguyen Duy Trinh's interview with AFP, 9 February 1979 in *Soviet Review (SR)*, USSR Embassy, 10, xvi, 22 February 1979, New Delhi, p. 16; SAV memorandum of 14 February 1979, Note 1, pp. 2-3.
- 21 Brezhnev's 2 November 1977 speech, 'The Great October Revolution and Mankind's Progress', *SR*, 53, xiv, 14 November 1977, p. 15; I Trofimova, 'Productive Visit', *NT*, 11, March 1978, p. 16; D. Petrov, 'Japan's Place in US Asian Policy', *IA*, 10, 1978, p. 58; A. Vakhrameyev, 'Detente and the World Balance of Forces', *IA*, 1, 1979, pp. 78-86.
- 22 *SR*, 6, xvi, 5 February 1979, pp. 29-30.
- 23 *IT*, 17-18 January 1978, p. 5, respectively.
- 24 'Indeed, the Vietnamese invasion and occupation of Kampuchea together with the Vietnamese refugee problem have turned ASEAN into a clearly political organization. Its former almost pure economic profile is now almost dwarfed by the serious common political problems that these five nations have to meet at the doorstep of Thailand, one of its five members.' Lim Chong Yah, 'ASEAN's Internal Advances and External Security', *Asia Pacific Community*, Tokyo, No. 6, Fall 1979, p. 35.
- 25 J.K. McAllister, 'Hopeful Sings in US-ASEAN Ties', *The Mirror (M)*, Singapore, Vol. 14, No. 3, 6 March 1978, p. 2.
- 26 Foreign Minister Mochtar Kusumaatmaja's TV speech, 8 August 1979 (evening) in *Indonesia Times (IT)*, Jakarta, 10 August 1979, p. 1, and Guy J. Pauker, 'National Politics and Regional Powers' in Guy J. Pauker *et al.*, (eds.), *Diversity and Development in Southeast Asia: The Coming Decade*, McGraw-Hill, New York, 1977, p. 64.
- 27 'Chronicles', *The Indonesian Quarterly (IQ)*, Jakarta, Vol. v, No. 1, January 1977, p. 98.
- 28 Note 27, p. 99.
- 29 Note 26, pp. 57-59.
- 30 Note 27, p. 103.
- 31 Note 27, p. 103. Indonesian Defence Minister General M. Panggabean's statement.
- 32 Note 27, p. 103.
- 33 *Ibid.*
- 34 Jusuf Wanandi, 'Dimensions of Southeast Asian Security', *IT*, Vol. viii, No. 1, January 1980, p. 45.
- 35 Note 27, p. 106.
- 36 'Chronicles', *IT*, Vol. v, No. 4, October 1977, p. 88.
- 37 *Asia Research Bulletin (ARB)*, Singapore, 31, May 1978, p. 450.

38. Note 36, p. 91, and *IT*, 24 July 1979, p. 1 (statement of Dr. B.J. Habibie, Indonesia's Minister of Research and Technology).
39. *M*, Vol. 14, No. 43, 23 October 1978, p. 1.
40. *ARB*, 30 June 1978, pp. 457-58. Both Kuala Lumpur and Jakarta shared the dilemma and being members of the Islamic Conference that backed the rebel Muslim minority of the Philippines, as well as being leading member of the ASEAN, of which Manila was also a member.
41. *ARB*, 30 November 1978, pp. 502-23.
42. Rodney Tasker, 'Condemnation But No Confrontation', *Far Eastern Economic Review (FEER)*, Hong Kong, 26 January 1979, pp. 24-25.
43. Sheila Ocampo, 'Looking Out for Trouble', *FEER*, 3 August 1979, pp. 25-26.
44. *IT*, 20 July 1979, pp. 1, 4; 23 July 1979, p. 1.
45. *IT*, 28 August 1979, p. 1.
46. *IT*, 20 July 1979, p. 4.
47. *IT*, 25 July 1979, p. 1.
48. *IT*, 18 August 1979, p. 1.
49. Note 48, see Foreign Minister Kusummaatmaja's statement.
50. *IT*, 29 August 1979, p. 1.
51. *M*, Vol 15, No. 36, 3 September 1979, p. 3.
52. *IT*, 22 August 1979, p. 3.
53. *IT*, 29 August 1979, p. 1.
54. *IT*, 19 September 1979, p. 1.
55. *IT*, 3 September 1979, p. 1.
56. *IT*, 8 September 1979, p. 1.
57. *IT*, 10 September 1979, p. 1.
58. *IT*, 3 September 1979, p. 1.
59. *IT*, 13 September 1979, p. 1.
60. *IT*, 2 November 1979, p. 1.
61. *IT*, 15 September 1979, p. 1.
62. 'Perhaps China's invasion did have a salutary effect on Vietnam but it also demonstrated unequivocally the willingness of China to act regardless of the usual norms of world opinion'. Address by Deputy Foreign Minister of Trade and Industry, Datuk Seri M. Mohamed, 25 June 1979, in *Foreign Affairs Malaysia*, Ministry of Foreign Affairs, Kuala Lumpur, Vol. 12, No. 2, June 1979, pp. 226-27.
63. Denis D. Gray, 'The Drop in Number of the Boat People', *IT*, 6 September 1979, p. 4.
64. Indonesia's Tanjungpura regional military command, West Kalimantan, and the 3rd Brigade of Malaysia's Infantry (BIM) agreed at their 77th co-ordination meeting in Serawak (eastern Malaysia) to co-operate on eliminating the 118 PGMS/Paraku communist terrorists, *IT*, 19 October 1979, p. 3.
65. *IT*, 17 September 1979, p. 1.
66. *IT*, 15 October 1979, p. 1. Besides communication, a week-long joint air exercise called 'Elang-Malindo V' was also held. It involved C-130 and F-27 transport aircraft, Nuri helicopters, and Indonesia's F-86 Sabres. A separate exercise for search operations ('Samatha V') was also carried out along the Indonesian-Malaysian common border, *IT*, 18 October 1979, pp. 1, 8.

67. *IT*, 13 November 1979, p. 1.
68. *IT*, 2 November 1979, p. 1.
69. *IT*, 23 and 27 October 1979, p. 1.
70. *The Straits Times (ST)*, Singapore, 17 November 1979, p. 40.
71. *ST*, 15 November 1979, p. 40.
72. *ST*, 17 November 1979, p. 40.
73. *IT*, 18 October 1979, p. 1.
74. *IT*, 20 September 1979, p. 1.
75. *IT*, 4 October 1979, p. 4.
76. *IT*, 10 December 1979, p. 1.
77. A. H. Shahab, 'Threats Against ASEAN Solidarity', *IT*, 13 August 1979, p. 4.
78. *IT*, 19 October and 1 November 1979, p. 1.
79. *IT*, 17 October 1979, p. 1.
80. Statements by A. Malik, *IT*, 15 October 1979, p. 1 and Kusumaatmaja, *ST*, 16 October 1979, p. 1.
81. See Note 66.
82. *IT*, 8 November 1979, p. 1.
83. Note 82.
84. *IT*, 14 November 1979, p. 1.
85. *ST*, 15 November 1979, p. 1.
86. *IT*, 19 November 1979, p. 1.
87. *IT*, 20 November 1979, p. 1.
88. *IT*, 29, November 1979, p. 1.
89. *IT*, 9 November 1979, p. 6.
90. *IT*, 24 November 1979, p. 1.
91. *IT*, 13 November 1979, p. 1.
92. *IT*, 30 November, 1 and 3 December 1979, p. 1. respectively.
93. *IT*, 8 December 1979, p. 1.
94. *IT*, 13 December 1979, p. 8.
95. A Adenan, Director-General of Foreign Security Relations in Indonesia's Foreign Ministry, joined the Kuala Lumpur meeting directly from Hanoi, *IT*, 13 December 1979, p. 8.
96. *IT*, 15 December 1979, p. 1.
97. *IT*, 22 December 1979, p. 1.
98. *IT*, 17 December 1979, p. 1.
99. *IT*, 5 December 1979, p. 1.
100. *IT*, 7 December 1979, p. 1.
101. 20 and 21 December 1979, p. 1 respectively.
102. Kusumaatmaja's statement of 29 December 1979, *IT*, 31 December 1979, p. 1.
103. *IT*, 8 January 1980, p. 1.
104. *IT*, 9 January 1980, p. 1.
105. *IT*, 9 January 1980, p. 1.

106. *IT*, 12 January 1980, p. 1.
107. *Europe Archia*, Bonn, 25 April 1980, 8 Folge, D195-98.
108. *IT*, 25 October 1979, p. 1. This was only 20 per cent of the total Malaysian budget for 1980—an all time record. Kuala Lumpur has been negotiating with the US to buy 80 Skyhawk fighter-bombers (\$ 131 million), ships and minesweepers (\$ 110 million). It is also interested in ground attack F-5F jets to add to its F-5Es. *IT*, 30 October 1979, p. 1.
109. Among limited conflicts in intra-ASEAN relations, there is Manila's allegation that the Malaysian state of Sabah provides aid to the Moro rebels, and it has come to minor naval incidents between the two states. Tin smuggled from Indonesia and Malaysia finds outlet via Singapore. Indonesia's Halilantar Command was set up to patrol the waters of the Riau islands, which have greater economic ties with Singapore. *IT*, 3 August 1979, p. 2 (editorial), 24 November 1979, p. 1, and Ranjit Gill, 'ASEAN's Hot Contraband', *FEER*, 26 January 1979, pp. 42, 44.
110. Toru Yano, 'Pukuda's Hanoi-ASEAN House of Cards Has Collapsed', *FEER* 23 March 1979, pp. 39-42; Rodney Tasker, 'The Ugly Japanese Image is Still Very Real', *FEER*, 23 March 1979, pp. 44-45; Ali Moertopo, 'Political and Economic Development in Indonesia in the Context of Regionalism the Southeast Asia', *IQ*, Vol. vi, No. 2, April 1978, pp. 31-32; Jusuf Wanadi, 'The Western Pacific in the 1980's: An Analysis', *IQ*, Vol. vii, No. 2, April 1979, pp. 5-7, 'Southeast Asian Security in Perspective', *IQ* Vol. vii, No. 4, October 1979, pp. 70-76; and 'Dimensions of Southeast Asian Security', *IQ* Vol. viii, No. 1, January 1980, pp. 39-52.

The Federation of Malaysia

VERINDER GROVER*

Malaysia formerly consisted of the Colony of the Straits of Settlements of Penang, Malacca and Singapore, the federated Malay states of Perak, Selengor, Negri-Sambilan and Pahang and the unfederated states of Johore, Kedah, Kelantan, Trengganau and Perlis. The Colony of the Straits Settlements was directly administered by the British through a Governor and he, acting as the High Commissioner, exercised his authority through the British Resident in each of the four Federated States and through an adviser in unfederated states. During the Second World War Malaya came under the Japanese occupation who ruled the country with an iron hand. During occupation a strong feeling of nationalism and oneness grew amongst the people.

The end of war and defeat of Japan in 1945, opened new vistas of democracy for the various states of Malaya. As a result on 21 January, 1948 agreements were entered into by the British Government with rulers of each of the Malay states severally and further with all of them to form a federation of Malay.

Malaya became a fully independent sovereign State on the 31st of August, 1957, when the new Constitution providing for a fully

* Former Reader, Department of Political Science and Managing Editor, *Indian Political Science Review*, University of Delhi, Delhi.

self-governing and independent Federation of Malaysia within the Commonwealth came into force. The second Federation of Malaysia comprised the same states as its predecessor. However, in September, 1963, the colonies of North Borneo, viz. Sabah and Sarawak, and Singapore joined the federation after necessary constitutional amendments made by the Malayan Parliament, the federation of Malaysia formally came into existence on the 16th of September, 1963.

The present Constitution is the federal Constitution of 1957 as amended from time to time. The enactment of the Malaysia Act of 1963 has brought about fundamental change into the Constitution. Singapore seceded from the Federation of Malaysia by means of separate agreement signed on the 9th August 1965. It has now become independent state of Singapore.

The Constitution of Malaysia embodies the basic principles of a representative legislature, with a lower house wholly elected on the basis of adult franchise, a Cabinet responsible to the legislature and an independent Judiciary. The federal structure proceeds on a division of legislative and executive powers between the federal authorities and those of the member states, whilst the judiciary is maintained wholly as a federal instrument. The scheme of distribution of power between the federation and member-states involves division of subjects into three lists, one enumerating subjects over which the federal government has exclusive power, the second enumerating subjects over which the member-states have exclusive power, and the third mentioning subjects over which both the federal government and the member-states have concurrent power. The residual powers belong to the member states.

The Constitution provides for one of the rulers of Malay States to be elected from among themselves to be the Supreme Head of the Federation. He holds office for a period of 5 years. The Rulers also elect from among themselves a Deputy Supreme Head of State, also for a period of 5 years. The Supreme Head of the State appoints the leader of the Majority party in the lower house as the Prime Minister and other ministers on his advice. The Prime Minister heads the Cabinet which is collectively responsible to the Parliament. The executive functions are performed in the name of the Supreme Head of the State (*Yang-di-Pertuan-Agong*) who acts on the advice of the Cabinet.

APPENDIX I
THE FUTURE OF MALAYSIA

LEE KUAN YEW*

The subject "International Affairs" is as old as the subject of man. Although from the first tribes to the modern nations, man may have learned how to use wood and stone and metal and gun powder, and now nuclear power, his essential quality has never altered. The Pelloponesian Wars and the Three Kingdoms of the Chinese classics show there is nothing new in the human situation. The motivations for human behaviour manifest themselves in greed, envy, ambition, greatness, generosity, charity and inevitably end in a conflict of power positions. How that conflict is resolved depends upon the accident of the individuals in-charge of a particular tribe or nation at a given time.

A New Element

The facility with which men can now communicate and transport ideas, man himself and his weapons has changed. Therefore, into a very old situation has been introduced a very alarming element which puts the whole problem of international relations in a very different perspective.

Human Ingenuity

It is possible for the human ingenuity that discovered these modern means of communication of ideas which can make it possible for us to

* Speech by the Prime Minister of Singapore, Mr. Lee Kuan Yew to the Institute of International Affairs, Melbourne on March 24, 1965

communicate with each other so rapidly, to transport human beings from one place to another rapidly, and to deliver weapons of destruction instantaneously, also to enable us to find some way, if not a final solution, at least to stave off the inevitability of complete destruction if we pursue power and play with the mechanics of power in the way nations of Europe and of Asia have been accustomed to do for so many thousand years.

East-West Conflict

More immediately of concern to us is the ideological conflict between East and West, between Communism and Anti-communism with a large mass of Afro-Asia still non-communist in the sense that they do not want communism but are not convinced that the answer to communism is anti-communism and western capitalism; and in this situation, how to find sufficient accommodation to prevent calamity? If it is not possible to find a solution, at least to be able to get some time in which accommodation is possible while some final solution is being worked out.

The Australian Problem

Australia, being somewhat near, finds herself more preoccupied with some of the problems of the region, particularly since she has some engineers in South Vietnam, although not on combat duty. The American problem in South Vietnam is not unrelated with American interests ultimately in the whole of the region, which will determine whether America will find it worthwhile to continue maintaining a presence in Asia. Or, if not in Asia, in the South Pacific, which in turn poses the question whether the Australians can in a world of big power conflicts find some shelter behind some big power, which will afford them the comfort of superior force.

A Simple Division

What does this conflict signify? Ten years ago, when the Geneva Agreement was signed, it was doubtful whether the position could have been held for 11 years. Then the world was a simple division of the underprivileged against the privileged Western nations. The underprivileged included all the non-European countries, or the non-European populations dependent on Russian military force to break down the hegemony of America and Europe over the rest of the world.

The position appeared so very simple and clear cut at that time. The West was determined to hang on to what it had; the East, Russia, East Europe and China, determined to smash every modicum of strength left

in the West, and to liberate the world. The few people who had then been already liberated, such as the Indians, the Pakistanis, the Burmese, the Ceylonese, but not the Africans or the Malaysians, were undecided as to where their interests lay.

The Bandung Conference

1955 which marked the first decade after the second World War was the high-water mark of that age. It saw Bandung, anti-colonialism and the solidarity of Afro-Asia against European hegemony. On one side were those for freedom, for equality, for liberty, for human happiness; and on the other those who wanted to assert European ascendancy and exploit the subject peoples of Asia and Africa. It was that simple.

A New Division

Ten years from then in 1965, a very different picture presents itself. It is no longer European *versus* the Rest — the Rest being led by the Communists, and the Europeans representing anti-communist, anti-change: it is the communists *versus* other communists. It is the Russians, who are now called Revisionists *versus* the Chinese, who proclaim that they are the true disciples of Marx and Lenin. The West itself is divided, however identical the interests of European countries may be.

President De Gaulle is not convinced that in a crisis America will sacrifice her own interest on behalf of France. President De Gaulle is not convinced that the Americans would act as Europeans. He fears American interest may be given precedence; therefore he must have his own say, and must have his own deterrent. As for the Afro-Asians, the solidarity which manifested itself in 1955, in the great brotherhood of man, is now clear as a solidarity against European domination.

Asians Fight Against Asians

In 1955 when they foregathered in Bandung, Afro-Asia proclaimed its solidarity for a peaceful endeavour, mutual respect and self-esteem, non-interference with each other regardless of size, and for the settlement of disputes by the five cardinal principles, *Panjasila*, Afro-Asia's code of moral ethics.

Now Asians have fought Asians over the Himalayas; Africans have fought Africans over former French possessions lying between Morocco and Algeria, or between Somalia and Kenya and Somalia and Ethiopia. That first flush, that romantic decade of brotherhood of all non-white peoples against white peoples, has gone through a subtle change. Now it

is realised that man whether he is European, Asian or African, is a human being, and collectively, as a group constituted in nations, they react in certain predictable manners and ways.

Inevitably, they react in their own defensive interests, and all principles go by the board: except insofar as the principles happen to suit the exigencies of their immediate interests. Now this is the problem we are faced with a South-east Asia. Two decades have passed since 1945. Many nations have emerged, some old some new; some never existed before in history, such as Malaysia, or, for that matter, Indonesia. They have had as yet no time to be able to ascertain what is in their collective interests, firstly as individual nations, and secondly, as groups of nations in the region. They have not been able to act in consort with each other, if not for their collective interests, at least against a common threat.

The Age of Nehru

In South-east Asia, the most spectacular thing about the period from 1945 to 1965, the Age of Nehru (because he set the pace, the idealism, the belief in great principles), was the absence of cynicism, to a point where vast numbers of otherwise cynical people were led to believe that because Asians have gone through a common tribulation and common humiliation at the hands of the European powers, therefore thereafter they would always be brothers in a common struggle. That is not true, unfortunately. The Cambodians know it is not true, they being as fearful of the South Vietnamese as of the North Vietnamese. They are equally fearful of the Thais, because their history before the French took them over, was one in which in any case they were likely to have been pincered between these two forces, both bigger than them.

But none of these powers were able to exercise an influence outside their own region in aid of their own interests. This is the most spectacular single fact of Asia in the two decades after the Second World War.

Fantastic Alliances

If one were to look back from 1945 and turn over the pages of history, one would wonder how it was that the highly intelligent and highly experienced revolutionary figures in India, not just individuals but groups of men, were able to work themselves into a position where India is now divided between Pakistan and India. Strangely enough, Pakistan — Muslim and anti-communist — now is acting in consort with China because it has a dispute with India over Kashmir. It is very hard to believe that this need have happened. It is equally strange the

Indonesians should now be actively soliciting economic aid from China to carry out a policy of confrontation, which cannot mean any identity of interest. Whatever the end-result of confrontation may be, there is no coincidence of interest between the present Indonesian regime and the Chinese government whatsoever. Yet they are able to find common accommodation, albeit temporary. Surely, this is fantastic.

Puzzle of Filipino Claim

To make confusion worse confounded, there is the attitude of the Filipinos who are America's proteges in Asia: American manifestation of culture in the Pacific, and dependent on American aid for its cultural pattern of life. Now, against its own will, it is committed internationally on the side of the Indonesians against Malaysia, all on account of some fabulous claim over Sabah which is based upon the interpretation of some old document which the Sultan of Sulu and the Sultan of Brunei were supposed to have signed some time in the last century.

Loss of Aura in Afro-Asia

How did this come about? Is it possible that these sane, rational, intelligent men could have worked themselves into these awkward positions?

The first admission to be made is that it was inevitable that the idealism which generated so much hope of a brave, new Afro-Asian world had to go through this phase of disillusion before man discovered that Afro-Asians were men, human beings, just like the others, as much prisoners of their past as apostles of their future.

Problem of Malaysia

It is in this context that the problems of Malaysia being presented to you. As mentioned earlier, there is nothing new in human relationships, in human situations, in the permutations and combinations of any given situation between two groups of men either as tribes or as nation-states, but the big difference is the capacity for quick transportation of ideas, men and weapons, creating a new problem.

Malaysia is, in a way, a very special manifestation of this problem. Here, as a result of a hundred-odd years of British rule, vast number of men moved in from China, India and Indonesia. On Singapore island there were probably about two fishing villages, with probably not more than 500 people, when Stamford Raffles first established a colony early

in the 19th century. Perhaps, just as there was nobody in Melbourne 200 years ago, except for a few people with boomerangs and wooden spears.

But, unlike Melbourne or Sydney or Wellington, here was a situation where migration had taken place, in large numbers, bringing into one milieu peoples of different cultures — Chinese, Indians, Malays and Indonesians, products of different civilizations. Because their past histories were different, so their present habit-patterns are also very different.

Evolution of a Life of Ease

The Malays and the Indonesians under the beneficence of tropical sunshine and tropical rainfall are by and large a leisurely people, not intense, with no tendency to gastric ulcers, no desire to accumulate fortunes, leading lives as satisfying as any other human beings anywhere in the world. They would have been quite happy but for the impact of Western civilization which brought in the Chinese and the Indians into one milieu.

Industry of Immigrants

The Chinese, products of floods, pestilence, famine are an intense people, not better or worse, but different because of that experience. A different climate and a different situation produced a different type of culture. The people who went South were fortune-hunters: that's the main reason why they left their homes. They also went to South Island, New Zealand, to look for gold when there was a gold rush there, after they had missed the gold rush in California. In Malaysia they tried their hand in rubber, tin, commerce, trade, industry and manufacturing. Similarly, the Indians were also migrants seeking a better life. At the time of leaving their country, many had the intention to return, to receive the accolade from their own village elders for having made good. But for various reasons, they lived on in the leisurely climate of Malaysia because life was good here.

British Authority in Malaysia

What keeps Malaysia together? For over a hundred-odd years, the same British Raj governed the whole of these territories. They divided it into little Protectorates and had little potentates whom they installed and regularly removed whenever they were found inconvenient and then in their place they installed another cousin or uncle, or aunt twice-removed.

The business of extracting wealth from these regions continued with unremitting efficiency until the Japanese came in 1942, and then the whole system collapsed.

To their credit when they returned in 1945, the British realised that this was the end of the Empire. They are probably reading the archives now, seeing some of the saving-grams that went backwards and forwards between their leaders in London and Ministers and Under-Secretaries giving instructions to the Governors. In fact, there was a conscious effort to try and go along with history. They knew that to re-establish the old dominance was no longer possible.

Separation of Singapore from Malaya

They tried in many diverse ways to keep a foot-hold in the region, and one of the biggest mistakes they made — not with malice — was to divide Singapore from Malaya and allow the development to go on in the two territories, one more or less Malay, in which Malays were predominant, and the other with Chinese predominance. For 18 years it went on from 1945 to 1963, until the two territories were brought together again. The problems we are facing today need never have arisen if that artificial political division had not taken place.

If the British Government had not been persuaded that it was possible to hold this island base, for perhaps three, four or more decades, then Malaya would have had to learn to live with Singapore much earlier, and all our problems, which are merely problems of adjustment today, would have had to be faced in 1945, 1946, 1947 or 1948. Much greater stability would have resulted.

Battle for Merger

But that was not the case. It took 18 years, or nearly 16 years, till 1961, before we finally convinced the British Government that a separate Singapore meant in the end greatly resented problems; that a Singapore crippled economically by a hinterland in the hands of a hostile government, a regime which did not share its forward-looking revolutionary attitude, was bound to lead to conflict, resulting in the complete destruction of the British bases. It is in the light of this that you have got to face up to the problems which Australia, together with New Zealand have to under-write with the British.

Had the British been more far-sighted and seen that it was not possible to hold Singapore separately from Malaya, many of these problems need

not have arisen. But these problems have, because for 18 years Malaya was so accustomed to Malay predominance, when the awful moment of truth that it could not go along to the utter disregard of what was happening in Singapore came, they found Singapore so unpalatable and indigestible a unit that they insisted that Sabah, Sarawak and Brunei should go along with it.

In any case, Sabah, Sarawak and Brunei would have gone along with it. We were part of one empire: our telecommunications networks, the trade lines, the administrative system, the civil service, were by and large one. The British kept up the fiction of different political divisions. But this accident of taking in the Borneo States together with Singapore triggered off confrontation because 1963 the year of the formation of Malaysia, coincided with the year the Indonesians got back West Irian (on May the 1st), and thereby lost the one reason for doing what they were. Either they had to do something different and turn inwards to build Indonesia now that they were through with anti-colonialism, or they had to go on with another adventure.

Problems of Adjustment

Had we formed Malaysia in 1962 or 1961, perhaps we could have avoided this evil. But by a freak of history we formed it in the very year the Indonesians resolved their West Irian problem and found themselves with nothing else to do. An army of 400,000 became suddenly unemployed. This would mean retrenchment for officers and soldiers, producing unpleasant effects.

That is the beginning of our problems, and of yours. Because, for the first time, Malaysia, Australia and New Zealand have to face up to the realities of living with an uncomfortable, unhappy neighbour. We regret the fact that he is uncomfortable. We would like to help him to be comfortable. But he is in no mood to be rational and to be constructive. He is not interested in increasing his standard of living, or in increasing the industrial output of the gross national product of Indonesia. The President is also in the last phase of his life, and determined that whatever else history may say of him, it shall at least accord him an honoured place as one of the great revolutionaries that the Afro-Asian world produced, and he will have a niche in the Afro-Asian pantheon of gods. He has indeed compared himself to Jesus Christ. The way he made the comparison was not without great vividness. They all talk in great terms. They all think vivid, imaginative pictures for their people.

The Great Visionary

What history will ultimately say about the President is not known but I do know that he is determined that history shall say that he was a great man. In view of this, to start turning at this stage of his life internal construction when the whole of his life has not been constructive is hardly likely to earn him an honoured place amongst the leaders of men. So, we have to resign ourselves to this revolutionary posture being maintained, if for no other reason than that this is the way the great visionary intends to go down the corridors of history.

Eventual Take-over by P.K.I.

But our problems will persist long after the President of Indonesia has left the scene. I would like to believe that after he is gone, perhaps our problems will become more manageable. But I am not greatly encouraged in this belief because of the skill, the patience, and the perseverance with which the Indonesian Communists seek a broad national front in Indonesia. If they can succeed in carrying on this great anti-colonial, anti-neo-colonial surge, "Common enemies", "all Indonesians unite", and "all patriotic forces unite", whether they are in the Army, whether they are in the Communist Party, whether they are in Islamic groups or otherwise, and buy themselves more time in which to consolidate their position not only in the outer regions, but also in the Army itself, then they are in for more years of strife, the end result of which can only mean greater peril.

We want to be Left Alone

But then, so many things in history are not predictable. Nobody would have imagined that in spite of all the great accord which existed between India and China in the early 1950's, Mr. Nehru would live to see his policies of peaceful co-existence destroyed. So half our battle is that not knowing what the ultimate result is going to be, although fearing that the result may be adverse, it nevertheless behoves us that we should hang on and press forward on every possible front in order that if the situation offers itself, we shall be there, ready to consolidate our position. Your position and mine, in this respect, are identical.

All we ask for is to be left alone to get on with our business of living, to build up our own country, create our own prosperity, trade and be friendly with our neighbours. Our problem is that our neighbours are

bigger, and have very little inducement to leave us alone because we are wealthier, and see no reason why they should not exercise a greater influence over our lives than they are doing.

Territorial Ambitions

So we go back to the first history of man. No tribe in proximity with another tribe is happy until a state of dominance of one over the other is established. Or until it has tried to establish that dominance, and failed and it is quite satisfied that it is not possible, whereupon it lives in fear that the other tribe will try and assert dominance over it. The cavalcade of man will go on. If it goes on, then we have reason to rejoice, for then, we shall reach for the moon and the stars and the universe.

The danger is that with the modern advances in scientific techniques, it may well be that the last mistake may be the end of all this history, and strife between conflicting groups. But those are the imponderables, the infinite. What are finite and definable are our immediate problems: those who want to create instability in the area are on one side, and on the other are those who want to seek accommodation and stability and progress, leading naturally to a much more viable situation for all the present existing regimes in the area.

An Identity of Interests

1955 saw Australians and New Zealanders, British, French, Dutch, Americans, the colonialists on one side, and Malaysians together with Chinese, Indians, Africans and others on the other side. The picture in 1965 is a very different picture.

You want to be left alone in peace, unmolested. I want to be left alone in peace, unmolested. Therefore, we are together. If I am left in peace, unmolested, in spite of the pressures from a bigger neighbour and in the end if their pressures turn out to be unsuccessful, your chance of being left in peace is that much greater. The wider divisions are between those who want to create general instability, not just big and small nations, and people who have a stake in instability. Communist regimes can only emerge if there is chaos, confusion and disintegration.

Bulwark against Communism

Therefore, the communists have a stake in economic chaos. They are on one side. We are on the other. But I doubt whether the Russians are all that happy about North Vietnam and South Vietnam, because they have

another split which cuts across that desire to upset established order, if by upsetting the established order they upset their position in that established order. For, the Russians have established a very comfortable position in the order of things.

So we can go on *ad infinitum*. Our hope is that by holding on and establishing peace and stability, other powers will also begin to develop an interest to establish an interest in their position in the world, whereupon we may well emerge into a much more peaceful, a much more tranquil, a much more secure world. That may or may not be so in the end. But it is on that basis that we must endeavour to hold the present position.

APPENDIX II
CONSTITUTION OF MALAYSIA

PART I

THE STATES, RELIGION AND LAW OF THE FEDERATION

1. (1) The Federation shall be known, in Malay and in English, by the name Malaysia.

(2) The States of the Federation shall be—

- (a) the States of Malaya, namely, Johore, Kedah, Kelantan, Malacca, Negri Sembilan, Pahang, Penang, Perak, Perlis, Selangor and Trengganu; and
- (b) the Borneo States, namely, Sabah and Sarawak; and
- (c) the State of Singapore.**

(3) The territories of each of the States mentioned in Clause (2) are the territories comprised therein immediately before Malaysia Day.*

†2. Parliament may by law—

- (a) admit other States to the Federation;
- (b) alter the boundaries of any State;

but a law altering the boundaries of a State shall not be passed without the consent of that State (expressed by a law made by the Legislature of that State) and of the Conference of Rulers.

* September, 16, 1963—L.N. 214/1963.

† See Article 113 (3) and, also Article 159 (4) (bb).

** The State of Singapore seceded from the Federation of Malaysia in 1965.

3. (1) Islam is the religion of the Federation; but other religions may be practised in peace and harmony in any part of the Federation.

(2) In every State other than States not having a Ruler the position of the Ruler as the Head of the Muslim religion in his State in the manner and to the extent acknowledged and declared by the Constitution of that State, and, subject to that Constitution, all rights, privileges, prerogatives and powers enjoyed by him as Head of that religion, are unaffected and unimpaired; but in any acts, observances or ceremonies with respect to which the Conference of Rulers has agreed that they should extend to the Federation as a whole each of the other Rulers shall in his capacity of Head of the Muslim religion authorise the Yang di-Pertuan Agong to represent him.

(3) The Constitutions of the States of Malacca, Penang and Singapore shall each make provision for conferring on the Yang di-Pertuan Agong the position of Head of the Muslim religion in that State.

(4) Nothing in this Article derogates from any other provision of this Constitution.

4. (1) This Constitution is the supreme law of the Federation and any law passed after Merdeka Day which is inconsistent with this Constitution shall, to the extent of the inconsistency, be void.

(2) The validity of any law shall not be questioned on the ground that—

- (a) it imposes restrictions on the right mentioned in Article 9 (2) but does not relate to the matters mentioned therein; or
- (b) it imposes such restrictions as are mentioned in Article 10 (2) but those restrictions were not deemed necessary or expedient by Parliament for the purposes mentioned in that Article.

(3) The validity of any law made by Parliament or the Legislature of any State shall not be questioned on the ground that it makes provision with respect to any matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws, except in proceedings for a declaration that the law is invalid on that ground or—

- (a) if the law was made by Parliament, in proceedings between the Federation and one or more States;
- (b) if the law was made by the Legislature of a State, in proceedings between the Federation and that State.

(4) Proceedings for a declaration that a law is invalid on the ground mentioned in Clause (3) (not being proceedings falling within paragraph (a) or (b) of the Clause) shall not be commenced without the leave of a judge of the Federal Court; and the Federation shall be entitled to be a party to any such proceedings, and so shall any State that would or might be party to proceedings brought for the same purpose under paragraph (a) or (b) of the Clause.

PART II

FUNDAMENTAL LIBERTIES

*5. (1) No person shall be deprived of his life or personal liberty save in accordance with law.

(2) Where complaint is made to a High Court or any judge thereof that a person is being unlawfully detained the court shall inquire into the complaint and, unless satisfied that the detention is lawful, shall order him to be produced before the court and release him.

(3) Where a person is arrested he shall be informed as soon as may be of the grounds of his arrest and shall be allowed to consult and be defended by a legal practitioner of his choice.

(4) Where a person is arrested and not released he shall without unreasonable delay, and in any case within twenty-four hours (excluding the time of any necessary journey) be produced before a magistrate and shall not be further detained in custody without the magistrate's authority.

(5) Clauses (3) and (4) do not apply to an enemy alien.

6. (1) No person shall be held in slavery.

(2) All forms of forced labour are prohibited, but Parliament may by law provide for compulsory service for national purposes.

(3) Work incidental to the serving of a sentence of imprisonment imposed by a court of law shall not be taken to be forced labour within the meaning of this Article.

7. (1) No person shall be punished for an act or omission which was not punishable by law when it was done or made, and no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.

(2) A person who has been acquitted or convicted of an offence shall not be tried again for the same offence except where the conviction or acquittal has been quashed and a retrial ordered by a court superior to that by which he was acquitted or convicted.

* See Article 149 (1).

8. (1) All persons are equal before the law and entitled to the equal protection of the law.

(2) 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.

(3) There shall be no discrimination in favour of any person on the ground that he is a subject of the Ruler of any State.

(4) No public authority shall discriminate against any person on the ground that he is resident or carrying on business in any part of the Federation outside the jurisdiction of the authority.

(5) This Article does not invalidate or prohibit—

- (a) any provision regulating personal law;
- (b) any provision or practice restricting office or employment connected with the affairs of any religion, or of an institution managed by a group professing any religion, to persons professing that religion;
- (c) any provision for the protection, well-being or advancement of the aboriginal peoples of the Malay Peninsula (including the reservation of land) or the reservation to aborigines of a reasonable proportion of suitable positions in the public service;
- (d) any provision prescribing residence in a State or part of a State as a qualification for election or appointment to any authority having jurisdiction only in that State or part, or for voting in such an election;
- (e) any provision of a Constitution of a State, being or corresponding to a provision in force immediately before Merdeka Day;
- (f) any provision restricting enlistment in the Malay Regiment to Malays.

*9. (1) No citizen shall be banished or excluded from the Federation.

(2) Subject to Clause (3) and to any law relating to the security of the Federation or any part thereof, public order, public health, or the

* See Article 149(1).

punishment of offenders, every citizen has the right to move freely throughout the Federation and to reside in any part thereof.

(3) So long as under this Constitution any other State is in a special position as compared with the States of Malaya, Parliament may by law impose restrictions, as between that State and other States, on the rights conferred by Clause (2) in respect of movement and residence:

Provided that no restriction on the right of movement between the State of Singapore and the States of Malaya shall be imposed by virtue of this Clause except by a law relating to labour or education or to any matter in respect of which, because of the special position of the State of Singapore, it appears to Parliament to be desirable to prevent the enjoyment of rights both in the State of Singapore and in the States of Malaya.

*10. (1) Subject to Clauses (2) and (3),—

- (a) every citizen has the right to freedom of speech and expression;
- (b) all citizens have the right to assemble peaceably and without arms;
- (c) all citizens have the right to form associations.

(2) Parliament may by law impose—

- (a) on the rights conferred by paragraph (a) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, friendly relations with other countries, public order or morality and restrictions designed to protect the privileges of Parliament or of any Legislative Assembly or to provide against contempt of court, defamation, or incitement to any offence;
- (b) on the right conferred by paragraph (b) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof or public order;
- (c) on the right conferred by paragraph (c) of Clause (1), such restrictions as it deems necessary or expedient in the interest of the security of the Federation or any part thereof, public order or morality.

* See Article 149(1)

(3) Restrictions on the right to form associations conferred by paragraph (c) of Clause (1) may also be imposed by any law relating to labour or education.

11. (1) Every person has the right to profess and practise his religion and, subject to Clause (4), to propagate it.

(2) No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.

(3) Every religious group has the right—

- (a) to manage its own religious affairs;
- (b) to establish and maintain institutions for religious or charitable purposes; and
- (c) to acquire and own property and hold and administer it in accordance with law.

(4) State law may control or restrict the propagation of any religious doctrine or belief among persons professing the Muslim religion.

(5) This Article does not authorise any act contrary to any general law relating to public order, public health or morality.

12. (1) Without prejudice to the generality of Article 8, there shall be no discrimination against any citizens on the grounds only of religion, race, descent or place of birth—

- (a) in the administration of any educational institution maintained by a public authority, and, in particular, the admission of pupils or students or the payment of fees; or
- (b) in providing out of the funds of a public authority financial aid for the maintenance or education of pupils or students in any educational institution (whether or not maintained by a public authority and whether within or outside the Federation).

(2) Every religious group has the right to establish and maintain institutions for the education of children and provide therein instruction in its own religion, and there shall be no discrimination on the ground only of religion in any law relating to such institutions or in the administration of any such law; but federal law or State law may provide for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion.

(3) No person shall be required to receive instruction in or to take part in any ceremony or act of worship of a religion other than his own.

(4) For the purposes of Clause (3) the religion of a person under the age of eighteen years shall be decided by his parent or guardian.

13. (1) No person shall be deprived of property save in accordance with law.

(2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

PART III

CITIZENSHIP

CHAPTER I

CITIZENSHIP BY OPERATION OF LAW

14. (1) Subject to the provisions of this Part, the following persons are citizens by operation of law, that is to say:

- (a) every person born before Malaysia Day who is a citizen of the Federation by virtue of the provisions contained in Part I of the Second Schedule; and
- (b) every person born on or after Malaysia Day and having any of the qualifications specified in Part II of the Second Schedule; and
- (c) every citizen of Singapore.

(2) Subject to the provisions of this Part, provision with respect to citizenship of Singapore may be made by the constitution of that State, and may be amended by laws passed by the Legislature of that State and approved by Act of Parliament.

(3) Citizenship of Singapore shall not be severable from citizenship of the Federation, but a Singapore citizen by the loss of either shall lose the other also (subject to the provision made by this Part for the enrolment of a Singapore citizen as a citizen who is not a Singapore citizen).

CHAPTER II

CITIZENSHIP BY REGISTRATION OR NATURALISATION AND TRANSFER TO OR FROM SINGAPORE

15. (1) Subject to Article 18, any married woman whose husband is a citizen, but not a Singapore citizen, is entitled, upon making application to the Federal Government, to be registered as a citizen if the marriage was subsisting and the husband a citizen at the beginning of October, 1962, or if she satisfies the Federal Government—

- (a) that she has resided in the Federation outside Singapore throughout the two years preceding the date of the application, and intends to do so permanently; and
- (b) that she is of good character.

(2) Subject to Article 18, the Federal Government may cause any person under the age of twenty-one years of whose parents one at least is (or was at death) a citizen, but not a Singapore citizen, to be registered as a citizen upon application made to the Federal Government by his parent or guardian.

(3) Subject to Article 18, a person under the age of twenty-one years who was born before the beginning of October, 1962, and whose father is (or was at his death) a citizen, but not a Singapore citizen, and was also a citizen at the beginning of that month (if then alive), is entitled upon application made to the Federal Government by his parent or guardian, to be registered as a citizen if the Federal Government is satisfied that he is ordinarily resident in the Federation outside Singapore and is of good character.

(4) For the purposes of Clause (1) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore.

(5) The reference in Clause (1) to a married woman is a reference to a woman whose marriage has been registered in accordance with any written law in force in the Federation, including any such law in force before Merdeka Day, or with any written law in force before Malaysia Day in the territories comprised in the Borneo States or Singapore:

Provided that this Clause shall not apply where the woman applies to be registered as a citizen before the beginning of September, 1965, or such later date as may be fixed by order of the Yang di-Pertuan Agong, and is at the date of the application ordinarily resident in the Borneo States or Singapore.

(6) In Clause (1) the words "outside Singapore" shall not have effect in the case of a woman whose husband is a citizen by naturalisation under Clause (2) of Article 19.

15A. Subject to Article 18, the Federal Government may, in such special circumstances as it thinks fit, cause any person under the age of twenty-one years to be registered as a citizen.

16. Subject to Article 18, any person of or over the age of eighteen years who was born in the Federation before Merdeka Day* is entitled, upon making application to the Federal Government, to be registered as a citizen if he satisfies the Federal Government—

- (a) that he has resided in the Federation outside Singapore, during the seven years immediately preceding the date of the application, for periods amounting in the aggregate to not less than five years;
- (b) that he intends to do so permanently;
- (c) that he is of good character; and
- (d) that he has an elementary knowledge of the Malay language.

16A. Subject to Article 18, any person of or over the age of eighteen years who is on Malaysia Day ordinarily resident in a Borneo State is entitled, upon making application to the Federal Government before September, 1971, to be registered as a citizen if he satisfies the Federal Government—

- (a) that he has resided before Malaysia Day in the territories comprised in those States and after Malaysia Day in the Federation outside Singapore for periods which amount in the aggregate to not less than seven years in the ten years immediately preceding the date of the application, and which include the twelve months immediately preceding that date;
- (b) that he intends to reside permanently in the Federation outside Singapore;
- (c) that he is of good character; and
- (d) except where the application is made before September, 1965, and the applicant has attained the age of forty-five years at the date of the application, that he has a sufficient knowledge of the Malay language or the English language or, in the case of an applicant ordinarily resident in Sarawak, the Malay language, the English language or any native language in current use in Sarawak.

17. (*Repealed by 14 of 1962 w.e.f. 1-7-1963*).

18. (1) No person of or over the age of eighteen years shall be registered as a citizen under this Constitution until he has taken the oath set out in the First Schedule.

* August 31, 1957.

(2) Except with the approval of the Federal Government, no person who has renounced or has been deprived of citizenship under this Constitution or the Constitution of the State of Singapore, or who has renounced or has been deprived of federal citizenship or citizenship of the Federation before Merdeka Day under the Federation of Malaya Agreement, 1948, shall be registered as a citizen under this Constitution.

(3) A person registered as a citizen under this Constitution shall be a citizen by registration from the day on which he is so registered.

(4) (*Repealed by 25 of 1963*).

19. (1) Subject to Clauses (7) and (9), the Federal Government may, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that—

(i) he has resided in the Federation outside Singapore for the required periods and intends, if the certificate is granted, to do so permanently; or

(ii) he has resided in Singapore for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(2) Subject to Clause (9), the Federal Government may, in such special circumstances as it thinks fit, upon application made by any person of or over the age of twenty-one years who is not a citizen, grant a certificate of naturalisation to that person if satisfied—

(a) that he has resided in the Federation for the required periods and intends, if the certificate is granted, to do so permanently;

(b) that he is of good character; and

(c) that he has an adequate knowledge of the Malay language.

(3) The periods of residence in the Federation or the relevant part of it which are required for the grant of a certificate of naturalisation are periods which amount in the aggregate to not less than ten years in the twelve years immediately preceding the date of the application for the certificate, and which include the twelve months immediately preceding that date.

(4) For the purposes of Clauses (1) and (2) residence before Malaysia Day in the territories comprised in the Borneo States shall be treated as residence in the Federation outside Singapore; and for purposes of Clause (2) residence before Malaysia Day in Singapore shall be treated as residence in the Federation.

(5) A person to whom a certificate of naturalisation is granted shall be a citizen by naturalisation from the date on which the certificate is granted.

(6) A person to whom a certificate of naturalisation is granted shall be a Singapore citizen if but only if the certificate is granted by virtue of paragraph (a) (ii) of Clause (1).

(7) A certificate of naturalisation as a Singapore citizen shall not be granted without the concurrence of the government of Singapore.

(8) Any application for naturalisation as a citizen of Singapore which has been made but not disposed of before Malaysia Day shall as from that day be treated as if it had been an application duly made for naturalisation under this Article, and as if anything done in connection therewith before that day under or for the purposes of the law of Singapore had been duly done under or for the purposes of this Article.

(9) No certificate of naturalisation shall be granted to any person until he has taken the oath set out in the First Schedule.

19A. (1) The Federal Government may, upon application made by any Singapore citizen of or over the age of twenty-one years, enrol him as a citizen who is not a Singapore citizen, if the Federal Government is satisfied that, had his application been for the grant under Article 19 of a certificate of naturalisation as a citizen who is not a Singapore citizen, the conditions of paragraphs (a) (i), (b) and (c) of Clause (1) of that Article for the grant of the certificate would be fulfilled.

(2) In relation to Singapore citizens Articles 15 and 15A shall apply to entitle or allow them to be enrolled as citizens who are not Singapore citizens, in the same way as those Articles apply, in relation to persons who are not citizens, to entitle or allow them to be registered as citizens, except that references to Article 18 shall not apply, nor shall Clause (6) of Article 15.

(3) A citizen enrolled as being or not being a Singapore citizen by virtue of this Article or by virtue of any corresponding provision in the Constitution of the State of Singapore shall be or not be a Singapore citizen accordingly from the day on which he is so enrolled.

(4) Where a person has been enrolled under this Article as a citizen who is not a Singapore citizen, and the Federal Government is satisfied that the enrolment—

- (a) was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) was effected by mistake;

the Federal Government may cancel the enrolment:

Provided that Article 27 shall apply in relation to the cancellation as it applies in relation to an order under Articles 24, 25 or 26 depriving a person of citizenship.

(5) Where a person's enrolment as a citizen who is not a Singapore citizen is cancelled under paragraph (a) of Clause (4), and in consequence of that enrolment a child of that person had also been enrolled as such a citizen pursuant to Clause (2) of Article 15 as applied by this Article, the Federal Government may also cancel the child's enrolment unless the child has attained the age of twenty-one.

(6) Where under this Article or under any provision of the Constitution of the state of Singapore a person's enrolment as a citizen of either description is cancelled, that shall not discharge him from liability in respect of anything done or omitted before the cancellation, but except as regards anything so done or omitted he shall revert to his former status as a citizen.

20. *(Repealed by 14 of 1962 w.e.f. 1-2-1964).*

21. *(Repealed by 26 of 1963 w.e.f. 1-2-1964).*

22. If any new territory is admitted to the Federation after Malaysia Day in pursuance of Article 2, Parliament may by law determine what persons are to be citizens by reason of their connection with that territory and the date or dates from which such persons are to be citizens.

CHAPTER II

TERMINATION OF CITIZENSHIP

23. (1) Any citizen of or over the age of twenty-one years and of sound mind who is also or is about to become a citizen of another country may renounce his citizenship of the Federation by declaration registered by the Federal Government, and shall thereupon cease to be a citizen.

(2) A declaration made under this Article during any war in which the Federation is engaged shall not be registered except with the approval of the Federal Government.

(3) This Article applies to a woman under the age of twenty-one years who has been married as it applies to a person of or over that age.

24. (1) If the Federal Government is satisfied that any citizen has acquired by registration, naturalisation or other voluntary and formal act (other than marriage) the citizenship of any country outside the Federation, the Federal Government may by order deprive that person of his citizenship.

(2) If the Federal Government is satisfied that any citizen has voluntarily claimed and exercised in a foreign country any rights available to him under the law of that country, being rights accorded exclusively to its citizens, the Federal Government may by order deprive that person of his citizenship.

(3) Where provision is in force under the law of any part of the Commonwealth for conferring on citizens of that part of the Commonwealth rights not available to other Commonwealth citizens, Clause (2) shall apply, in relation to those rights, as if that part of the Commonwealth were a foreign country.

(3A) Without prejudice to the generality of Clause (2), and that Clause as applied by Clause (3), the exercise of a vote in any political election in a place outside the Federation shall be deemed to be the voluntary claim and exercise of a right available under the law of that place; and for the purposes of Clause (2), and that Clause as applied as aforesaid, a person who, after such date as the Yang di-Pertuan Agong may by order appoint* for the purposes of this Clause,—

- (a) applies to the authorities of a place outside the Federation for the issue or renewal of a passport, or
- (b) uses a passport issued by such authorities as a travel document.

shall be deemed voluntarily to claim and exercise a right available under the law of that place, being a right accorded exclusively to the citizens of that place.

* Appointment of date 10-10-63—LN, 268 of 1963.

(4) If the Federal Government is satisfied that any woman who is a citizen by registration under Clause (1) of Article 15 has acquired the citizenship of any country outside the Federation by virtue of her marriage to a person who is not a citizen, the Federal Government may by order deprive her of her citizenship.

†25. (1) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalisation if satisfied—

- (a) that he has shown himself by act or speech to be disloyal or disaffected towards the Federation;
- (b) that he has, during any war in which the Federation is or was engaged, unlawfully traded or communicated with an enemy or been engaged in or associated with any business which to his knowledge was carried on in such manner as to assist an enemy in that war; or
- (c) that he has, within the period of five years beginning with the date of the registration or the grant of the certificate, been sentenced in any country to imprisonment for a term of not less than twelve months or to a fine of not less than five thousand dollars or the equivalent in the currency of that country, and has not received a free pardon in respect of the offence for which he was so sentenced.

(1A) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a citizen by naturalisation if satisfied that without the Federal Government's approval, he has accepted, served in, or performed the duties of any office, post or employment under the Government of any foreign country or any political sub-division thereof, or under any agency of such a Government, in any case where an oath, affirmation or declaration of allegiance is required in respect of the office, post or employment:

Provided that a person shall not be deprived of citizenship under this Clause by reason of anything done before the beginning of October, 1962, notwithstanding that he was at the time a citizen.

(2) The Federal Government may by order deprive of his citizenship any person who is a citizen by registration under Article 16A or 17 or a

† See Articles 27 and 28 (2).

citizen by naturalisation if satisfied that he has been ordinarily resident in foreign countries for a continuous period of five years and during that period has neither—

- (a) been at any time in the service of the Federation or of an international organisation of which the Federal Government was a member; nor
- (b) registered annually at a consulate of the Federation his intention to retain his citizenship.

(3) *(Repealed by 14 of 1962).*

*26. (1) The Federal Government may by order deprive of his citizenship any citizen by registration or by naturalisation if satisfied that the registration or certificate of naturalisation—

- (a) was obtained by means of fraud, false representation or the concealment of any material fact; or
- (b) was effected or granted by mistake.

(2) The Federal Government may by order deprive of her citizenship any woman who is a citizen by registration under Clause (1) of Article 15 if satisfied that the marriage by virtue of which she was registered has been dissolved, otherwise than by death, within the period of two years beginning with the date of the marriage.

(3) *(Repealed by 14 of 1962).*

(4) Except as provided by this Article, the registration of a person as a citizen or the grant of a certificate of naturalisation to any person shall not be called in question on the ground of mistake.

26A. Where a person has renounced his citizenship or been deprived thereof under Clause (1) of Article 24 or paragraph (a) of Clause (1) of Article 26, the Federal Government may by order deprive of his citizenship any child of that person under the age of twenty-one who has been registered as a citizen pursuant to this Constitution or the Constitution of the State of Singapore, and was so registered as being the child of that person or of that person's wife or husband.

26B. (1) Renunciation or deprivation of citizenship shall not discharge a person from liability in respect of anything done or omitted before he ceased to be citizen.

* See Article 27, and also Article 170.

(2) No person shall be deprived of citizenship under Articles 25, 26 or 26A unless the Federal Government is satisfied that it is not conducive to the public good that he should continue to be a citizen; and no person shall be deprived of citizenship under Article 25, paragraph (b) of Clause (1) of Article 26, or Article 26A if the Federal Government is satisfied that as a result of the deprivation he would not be a citizen of any country.

27. (1) Before making an order under Articles 24, 25 or 26, the Federal Government shall give to the person against whom the order is proposed to be made notice in writing* informing him of the ground on which the order is proposed to be made and of his right to have the case referred to a committee of inquiry under this Article.

(2) If any person to whom such notice is given applies to have the case referred as aforesaid the Federal Government shall, and in any other case the Federal Government may, refer the case to a committee of inquiry consisting of a chairman (being a person possessing judicial experience) and two other members appointed by that Government for the purpose.

(3) In the case of any such reference, the committee shall hold an inquiry in such manner as the Federal Government may direct, and submit its report to that Government; and the Federal Government shall have regard to the report in determining whether to make the order.

28. (1) For the purposes of the foregoing provisions of this Chapter—

- (a) any person who before Merdeka Day became a federal citizen or a citizen of the Federation by registration as a citizen or in consequence of his registration as the subject of a Ruler, or by the grant of a certificate of citizenship, under any provision of the Federation of Malaya Agreement, 1948, or of any State law shall be treated as a citizen by registration and, if he was not born within the Federation, as a citizen by registration under Article 17;
- (b) a woman who before that day became a federal citizen or a citizen of the Federation by registration as a citizen, or in consequence of her registration as the subject of a Ruler, under any provision of the said Agreement or of any State law authorising the registration of women married to citizens of the Federation or to subjects of the Ruler shall be treated as a citizen by registration under Clause (1) of Article 15;

* See section 9 of Part III of Second Schedule *infra*.

- (c) any person who before that day was naturalised as a federal citizen or a citizen of the Federation under the said Agreement or became a federal citizen of the Federation in consequence of his naturalisation as the subject of a Ruler under any State law shall (subject to Clause (2)) be treated as a citizen by naturalisation,

and references in those provisions to the registration or naturalisation of a citizen shall be construed accordingly.

(2) No person born within the Federation shall be liable by virtue of this Article to be deprived of citizenship under Article 25.

(3) A person who on Merdeka Day became a citizen by operation of law as having been citizen of the Federation immediately before that day shall not be deprived of citizenship under Clause (1) or (2) of Article 24 by reason of anything done on or before that day; but in the case of any such person Clause (2) of Article 25 shall apply equally in relation to a period of residence in foreign countries beginning before Merdeka Day and in relation to such a period beginning on or after that day.

28A. (1) For the purposes of Articles 24, 25, 26 and 26A a person who is a citizen by operation of law as having the status of a Singapore citizen shall be treated—

- (a) as a citizen by registration, if he acquired that status by registration, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by registration; or
- (b) as a citizen by naturalisation, if he acquired that status by naturalisation, or if he acquired it by enrolment when he was (or for those purposes was to be treated as being) a citizen of the Federation by naturalisation;

and references in those Articles to the registration or naturalisation of a citizen shall be construed accordingly.

(2) For the purposes of Articles 24, 25, 26 and 26A a person who on Malaysia Day becomes a citizen by operation of law because immediately before that day he has the status of a citizen of the United Kingdom and colonies shall be treated—

- (a) as a citizen by registration if he acquired that status by registration; and

- (b) as a citizen by naturalisation if he acquired that status by or in consequence of naturalisation;

and references in those Articles to the registration or naturalisation of a citizen shall be construed accordingly.

(3) Where a woman is under this Article to be treated as a citizen by registration, and the status in consequence of which she is to be so treated was acquired by her by virtue of marriage, then for purposes of Clause (4) of Article 24 and Clause (2) of Article 26 she shall be treated as a citizen by registration under Clause (1) of Article 15.

(4) Where a person born before Malaysia Day is under this Article to be treated as a citizen by registration by virtue of a connection with a Borneo State or with Singapore and he was not born in the territories comprised in the Borneo States or, as the case may be, in the State of Singapore, Article 25 shall apply to him as if he were a citizen by registration under Article 16A or 17.

(5) Notwithstanding that a person is under this Article to be treated as a citizen by naturalisation, he shall not be deprived of his citizenship under Article 25 if he was born before Malaysia Day in the territories comprised in the Borneo States and is to be so treated by virtue of a status acquired by or in consequence of naturalisation in those territories.

(6) Without prejudice to the foregoing Clauses, where on Malaysia Day a person becomes a citizen by operation of law in virtue of any status possessed by him immediately before that day, but he was liable in respect of things done before that day to be deprived of that status under the law relating thereto, then the Federal Government may by order deprive him of his citizenship, if proceedings for that purpose are begun before September, 1965; but Clause (2) of Article 26B and, subject to Clause (7), Article 27 shall apply to an order under this Clause as they apply to an order under Article 25.

(7) Where a person is liable to be deprived of citizenship under Clause (6) and proceedings had before Malaysia Day been begun to deprive him of the status in virtue of which he acquired his citizenship, those proceedings shall be treated as proceedings to deprive him of citizenship under that Clause, and shall be continued as such; but they shall be continued in accordance with the law relating to that status immediately before Malaysia Day, and the functions of the Federal Government in

relation thereto shall be delegated to such authority of the State in question as the Federal Government may determine.

CHAPTER III SUPPLEMENTAL

29. (1) In accordance with the position of the Federation within the Commonwealth, every person who is a citizen of the Federation enjoys by virtue of that citizenship the status of a Commonwealth citizen in common with the citizens of other Commonwealth countries.

(2) Any existing law shall, except so far as Parliament otherwise provides, apply in relation to a citizen of the Republic of Ireland who is not also a Commonwealth citizen as it applies in relation to a Commonwealth citizen.

30. (1) The Federal Government may, on the application of any person with respect to whose citizenship a doubt exists, whether of fact or of law, certify that that person is a citizen.

(2) A certificate issued under Clause (1) shall, unless it is proved that it was obtained by means of fraud, false representation or concealment of any material fact, be conclusive evidence that the person to whom it relates was a citizen on the date of the certificate, but without prejudice to any evidence that he was a citizen at an earlier date.

(3) For the purpose of determining whether a person was born a citizen of the Federation, any question whether he was born a citizen of another country shall be decided by the Federal Government, whose certificate thereon (unless proved to have been obtained by means of fraud, false representation or concealment of a material fact) shall be conclusive; and this Clause shall apply to questions arising under the Constitution of the State of Singapore as well as to questions arising under this Constitution.

(4) Any certificate issued under Clause (1) may state that the person to whom it relates is or is not a Singapore citizen, and Clause (2) shall apply accordingly; and if the Constitution of the State of Singapore provides for the government of the State to issue certificates of Singapore citizenship, Clause (2) shall apply in relation to a certificate issued under that provision as it applies to a certificate issued under Clause (1).

30A. (1) Notwithstanding anything in Article 47, a Singapore citizen is not qualified to be an elected member of either House of Parliament

except as a member for or from Singapore; and a citizen who is not a Singapore citizen is not qualified to be a member of either House for or from Singapore.

(2) A Singapore citizen shall not be qualified to be an elected member of the Legislative Assembly of any State other than Singapore, and a citizen who is not a Singapore citizen shall not be qualified to be a member of the Legislative Assembly of Singapore.

(3) Notwithstanding anything in Article 119, a citizen is not entitled to vote in a constituency in any election to the House of Representatives or a Legislative Assembly if—

- (a) the constituency is not in the State of Singapore and he is on the qualifying date (as defined in that Article) a Singapore citizen; or
- (b) if the constituency is in the State of Singapore and he is not on that date a Singapore citizen.

(4) Any election of a person to either House of Parliament or to a Legislative Assembly contrary to Clause (1) or (2) shall be void; and if a member of either House or of a Legislative Assembly (not being an appointed member) changes his status as being or not being a Singapore citizen, his seat shall become vacant.

30B. (1) Where under this Constitution a person becomes a Singapore citizen by naturalisation, or is enrolled as a citizen who is not a Singapore citizen, or being a Singapore citizen renounces or is deprived of his citizenship, or where a certificate of citizenship or other certificate is issued under Article 30 in relation to citizenship of Singapore, the Federal Government shall notify the government of Singapore of that fact.

(2) Where under the Constitution of the State of Singapore a person becomes a Singapore citizen by registration, or is enrolled as a Singapore citizen, or is deprived of his citizenship, or where a certificate of citizenship is issued under that Constitution, the government of Singapore shall notify the Federal Government of that fact.

31. Until Parliament otherwise provides, the supplementary provisions contained in Part III of the Second Schedule shall have effect for the purposes of this Part.

PART IV
THE FEDERATION
CHAPTER I
THE SUPREME HEAD

32. (1) There shall be a Supreme Head of the Federation, to be called the Yang di-Pertuan Agong, who shall take precedence over all persons in the Federation and shall not be liable to any proceedings whatsoever in any court.

(2) The Consort of the Yang di-Pertuan Agong (who shall be known as the Raja Permaisuri Agong) shall take precedence next after the Yang di-Pertuan Agong over all other persons in the Federation.

(3) The Yang di-Pertuan Agong shall be elected by the Conference of Rulers for a term of five years, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers or be removed from office by the Conference of Rulers, and shall cease to hold office on ceasing to be a Ruler.

(4) The provisions of Parts I and III of the Third Schedule shall apply to the election and removal of the Yang di-Pertuan Agong.

33. (1) There shall be a Deputy Supreme Head of the Federation (to be known as the Timbalan Yang di-Pertuan Agong) who shall exercise the functions and have the privileges of the Yang di-Pertuan Agong during any vacancy in the office of the Yang di-Pertuan Agong and during any period during which the Yang di-Pertuan Agong is unable to exercise the functions of his office owing to illness, absence from the Federation or for any other cause, but the Deputy Supreme Head shall not exercise those functions during any absence of the Yang di-Pertuan Agong which is expected to be less than fifteen days.

(2) The Deputy Supreme Head shall be elected by the Conference of Rulers for a term of five years, or if elected during the term for which the Yang di-Pertuan Agong was elected, for the remainder of that term, but may at any time resign his office by writing under his hand addressed to the Conference of Rulers and shall cease to hold office on ceasing to be a Ruler.

(3) If during the term for which the Deputy Supreme Head of the Federation was elected a vacancy occurs in the office of the Yang di-Pertuan Agong his term shall expire on the cessation of the vacancy.

(4) The provisions of Part II of the Third Schedule shall apply to the election of the Deputy Supreme Head of the Federation.

*(5) Parliament may by law provide for the exercise by a Ruler of the functions of the Yang di-Pertuan Agong in cases where those functions would under Clause (1) fall to be exercised by the Deputy Supreme Head but cannot be so exercised owing to a vacancy in the office of the Deputy Supreme Head or to his illness, absence from the Federation or to any other cause; but such a law shall not be passed without the consent of the Conference of Rulers.

34. (1) The Yang di-Pertuan Agong shall not exercise his functions as Ruler of his State except those of Head of the Muslim religion.

(2) The Yang di-Pertuan Agong shall not hold any office of profit.

(3) The Yang di-Pertuan Agong shall not actively engage in any commercial enterprise.

(4) The Yang di-Pertuan Agong shall not receive any emoluments of any kind whatever payable or accruing to him as the Ruler of his State under the provisions of the Constitution of that State or of any State law.

(5) The Yang di-Pertuan Agong shall not, without the consent of the Conference of Rulers, be absent from the Federation for more than fifteen days, except on a State visit to another country.

(6) The Raja Permaisuri Agong shall not hold any office under the Federation or any State.

(7) Where the Deputy Supreme Head of the Federation or any other person authorised by law exercises the functions of the Yang di-Pertuan Agong for a period exceeding fifteen days Clauses (1) to (5) shall apply to him during that period as they apply to the Yang di-Pertuan Agong.

(8) Nothing in Clause (1) shall prevent the Yang di-Pertuan Agong exercising as Ruler of his State any power vested in him either alone or in conjunction with any other authority—

(a) to amend the Constitution of the State; or

(b) to appoint a Regent or member of a Council of Regency in the place of any Regent or member, as the case may be, who has died or has become incapable for any reason of performing the duties of the office of Regent or member of the Council of Regency respectively.

35. (1) Parliament shall by law provide a Civil List** of the Yang di-Pertuan Agong which shall include provision for an annuity to be paid

* See the Yang di-Pertuan Agong (Exercise of Functions) Ordinance, 1957 (No. 72 of 1957).

** See Civil Lists Ordinance, 1957 (No. 70 of 1957).

to the Raja Permaisuri Agong, and shall be charged on the Consolidated Fund and shall not be diminished during the Yang di-Pertuan Agong's continuance in office.

†(2) Parliament shall by law make provision for the remuneration of the Deputy Supreme Head of the Federation or any other person authorised by law to exercise the functions of the Yang di-Pertuan Agong during any period during which he exercises those functions.

36. The Yang di-Pertuan Agong shall keep and use the Public Seal of the Federation.

37. (1) The Yang di-Pertuan Agong shall before exercising his functions take and subscribe before the Conference of Rulers and in the presence of the Lord President of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part I of the Fourth Schedule; and the oath shall be attested by two persons appointed for the purpose by the Conference of Rulers.

(2) The Deputy Supreme Head of the Federation shall before exercising his functions, other than the functions exercisable for the purpose of convening the Conference of Rulers, take and subscribe before the Conference of Rulers and in the presence of the Lord President of the Federal Court (or in his absence the next senior judge of the Federal Court available) the oath of office set out in Part II of the Fourth Schedule.

(3) The said oaths, translated into English, are set out in Part III of the Fourth Schedule.

(4) Any law made under Article 33(5) shall make provision corresponding (with the necessary modifications) to Clause (2).

CHAPTER II

THE CONFERENCE OF RULERS

‡38. (1) There shall be a Majlis Raja-Raja (Conference of Rulers), which shall be constituted in accordance with the Fifth Schedule.

† See the Timbalan Yang di-Pertuan Agong (Remuneration) Ordinance, 1958 (No. 19 of 1958)

‡ See Article 159 (5).

(2) The Conference of Rulers shall exercise its functions of—

- (a) electing, in accordance with the provisions of the Third Schedule, the Yang di-Pertuan Agong and Deputy Supreme Head of the Federation,
- (b) agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole,
- (c) consenting or withholding consent to any law and making or giving advice on any appointment which under this Constitution requires the consent of the Conference or is to be made by or after consultation with the Conference,

and may deliberate on questions of national policy (for example changes in immigration policy) and any other matter that it thinks fit.

(3) When the Conference deliberates on matters of national policy the Yang di-Pertuan Agong shall be accompanied by the Prime Minister, and the other Rulers and the Governors by their Mentri Mentri Besar or Chief Ministers; and the deliberations shall be among the functions exercised, by the Yang di-Pertuan Agong in accordance with the advice of the Cabinet, and by the other Rulers and the Governors in accordance with the advice of their Executive Councils.

(4) No law directly affecting the privileges, position, honours or dignities of the Rulers shall be passed without the consent of the Conference of Rulers.

(5) The Conference of Rulers shall be consulted before any change in policy affecting administrative action under Article 153 is made.

(6) The members of the Conference of Rulers may act in their discretion in any proceedings relating to the following functions, that is to say—

- (a) the election or removal from office of the Yang di-Pertuan Agong or the election of the Deputy Supreme Head of the Federation;
- (b) the advising on any appointment;
- (c) the giving or withholding of consent to any law altering the boundaries of a State or affecting the privileges, position, honours or dignities of the Rulers; or
- (d) the agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole.

(7) The function of the Conference of Rulers of agreeing or disagreeing to the extension of any religious acts, observances or ceremonies to the Federation as a whole shall not extend to Sabah or Sarawak, and accordingly those States shall be treated as excluded from the references in Clause (2) of Article 3 and in this Article to the Federation as a whole.

CHAPTER III THE EXECUTIVE

39. The executive authority of the Federation shall be vested in the Yang di-Pertuan Agong and exercisable, subject to the provisions of any federal law and of the Second Schedule, by him or by the Cabinet or any Minister authorised by the Cabinet, but Parliament may by law confer executive functions on other persons.

40. (1) In the exercise of his functions under this Constitution or federal law the Yang di-Pertuan Agong shall act in accordance with the advice of the Cabinet or of a Minister acting under the general authority of the Cabinet, except as otherwise provided by this Constitution; but shall be entitled, at his request, to any information concerning the government of the Federation which is available to the Cabinet.

(2) The Yang di-Pertuan Agong may act in his discretion in the performance of the following functions, that is to say—

- (a) the appointment of a Prime Minister,
- (b) the withholding of consent to a request for the dissolution of Parliament,
- (c) the requisition of a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Highnesses, and any action at such a meeting,

and in any other case mentioned in this Constitution.

* (3) Federal law may make provision for requiring the Yang di-Pertuan Agong to act after consultation with or on the recommendation of any person or body of persons other than the Cabinet in the exercise of any of his functions other than—

- (a) functions exercisable in his discretion;
- (b) functions with respect to the exercise of which provision is made in any other Article.

* See Article 42(4)(a).

41. The Yang di-Pertuan Agong shall be the Supreme Commander of the armed forces of the Federation.

42. (1) The Yang di-Pertuan Agong has power to grant pardons, reprieves and respites in respect of all offences which have been tried by court-martial; and the Ruler or Governor of a State has power to grant pardons, reprieves and respites in respect of all other offences committed in his State.

(2) Subject to Clause (10), any power conferred by federal or State law to remit, suspend or commute sentences for any offence* shall be exercisable by the Yang di-Pertuan Agong if the sentence was passed by a court-martial and, in any other case, shall be exercisable by the Ruler or Governor of the State in which the offence was committed.

(3) Where an offence was committed wholly or partly outside the Federation or in more than one State or in circumstances which make it doubtful where it was committed, it shall be treated for the purposes of this Article as having been committed in the State in which it was tried.

(4) The powers mentioned in this Article—

(a) are, so far as they are exercisable by the Yang di-Pertuan Agong, among functions with respect to which federal law may make provision under Article 40(3);

(b) shall, so far as they are exercisable by the Ruler or Governor of a State, be exercised on the advice of a Pardons Board constituted for that State in accordance with Clause (5).

(5) The Pardons Board constituted for each State shall consist of the Attorney General of the Federation, the Chief Minister of the State and not more than three other members, who shall be appointed by the Ruler or Governor; but the Attorney General may from time to time by instrument in writing delegate his functions as a member of the Board to any other person, and the Ruler or Governor may appoint any person to exercise temporarily the functions of any member of the Board appointed by him who is absent or unable to act.

* This power exists under the two Criminal Procedure Codes in force in the Federation, one in respect of Penang and Malacca and the other in respect of the rest of the Federation. See for example, Chapter XXVIII of the Criminal Procedure Code of the Federated Malay States (F.M.S. Cap. 6).

(6) The members of a Pardons Board appointed by the Ruler or Governor shall be appointed for a term of three years and shall be eligible for re-appointment, but may at any time resign from the Board.

(7) A member of the Legislative Assembly of a State or of the House of Representatives shall not be appointed by the Ruler or Governor to be a member of a Pardons Board or to exercise temporarily the functions of such a member.

(8) The Pardons Board shall meet in the presence of the Ruler or Governor and he shall preside over it.

(9) Before tendering their advice on any matter a Pardons Board shall consider any written opinion which the Attorney General may have delivered thereon.

(10) Notwithstanding anything in this Article, the power to grant pardons, reprieves and respites in respect of, or to remit, suspend or commute sentences imposed by any Court established under any law regulating Muslim religious affairs in the State of Malacca, Penang or Singapore shall be exercisable by the Yang di-Pertuan Agong as Head of the Muslim religion in the State.

43. (1) The Yang di-Pertuan Agong shall appoint a Juma'ah Mentri (Cabinet of Ministers) to advise him in the exercise of his functions.

(2) The Cabinet shall be appointed as follows, that is to say—

- (a) the Yang di-Pertuan Agong shall first appoint as Perdana Mentri (Prime Minister) to preside over the Cabinet a member of the House of Representatives who in his judgment is likely to command the confidence of the majority of the members of that House; and
- (b) he shall on the advice of the Prime Minister appoint other Mentri (Ministers) from among the members of either House of Parliament;

but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not continue to hold office after the beginning of the next session of Parliament unless, if he has been appointed Prime Minister, he is a member of the new House of Representatives, and in any other case he is a member either of that House or of the Senate.

(3) The Cabinet shall be collectively responsible to Parliament.

(4) If the Prime Minister ceases to command the confidence of the majority of the members of the House of Representatives, then, unless at his request the Yang di-Pertuan Agong dissolves Parliament, the Prime Minister shall tender the resignation of the Cabinet.

(5) Subject to Clause (4), Ministers other than the Prime Minister shall hold office during the pleasure of the Yang di-Pertuan Agong, unless the appointment of any Minister shall have been revoked by the Yang di-Pertuan Agong on the advice of the Prime Minister but any Minister may resign his office.

(6) Before a Minister exercises the functions of his office he shall take and subscribe in the presence of the Yang di-Pertuan Agong the oath of office and allegiance and the oath of secrecy set out in the Sixth Schedule.

(7) Notwithstanding anything in this Article, a person who is a citizen by naturalisation or by registration under Article 17 shall not be appointed Prime Minister.

(8) If a member of the Legislative Assembly of a State is appointed a Minister he shall resign from the Assembly before exercising the functions of his office.

(9) Parliament shall by law make provision for the remuneration of members of the Cabinet.*

43A. (1) The Yang di-Pertuan Agong may on the advice of the Prime Minister appoint Assistant Ministers from among the members of either House of Parliament; but if an appointment is made while Parliament is dissolved a person who was a member of the last House of Representatives may be appointed but shall not hold office after the beginning of the next session of Parliament unless he is a member either of that House or of the Senate.

(2) Assistant Ministers shall assist Ministers in the discharge of their duties and functions.

(3) The provisions of Clauses (5), (6) and (8) of Article 43 shall apply to Assistant Ministers as they apply to ministers.

(4) Parliament shall by law make provision for the remuneration of Assistant Ministers.†

* See the Minister's (Remuneration) Ordinance, 1957 (No. 63 of 1957).

† See the Assistant Minister's Act, 1960 (No. 5 of 1960).

CHAPTER IV
FEDERAL LEGISLATURE

44. The legislative authority of the Federation shall be vested in a Parliament, which shall consist of the Yang di-Pertuan Agong and two Majlis (House of Parliament) to be known as the Dewan Negara (Senate) and the Dewan Ra'ayat (House of Representatives).

45. (1) Subject to Clause (4), the Senate shall consist of elected and appointed members as follows,—

- (a) two members for each State shall be elected in accordance with the Seventh Schedule; and
- (b) twenty-two members shall be appointed by the Yang di-Pertuan Agong.

(2) The members to be appointed by the Yang di-Pertuan Agong shall be persons who in his opinion have rendered distinguished public service or have achieved distinction in the professions, commerce, industry, agriculture, cultural activities or social service or are representative or racial minorities or are capable of representing the interests of aborigines.

(3) The term of office of a member of the Senate shall, subject to the provisions of the Seventh Schedule, be six years and shall not be affected by a dissolution of Parliament.

* (4) Parliament may by law—

- (a) increase to three the number of members to be elected for each State;
- (b) provide that the members to be elected for each State shall be so elected by the direct vote of the electors of that State;
- (c) decrease the number of appointed members or abolish appointed members.

46. (1) The House of Representatives shall consist of one hundred and fifty-nine elected members.

* See Article 120.

(2) There shall be—

- (a) one hundred and four members from the States of Malaya;
- (b) sixteen members from Sabah;
- (c) twenty-four members from Sarawak;
- (d) fifteen members from Singapore.

47. Every citizen resident in the Federation is qualified to be a member—

- (a) of the Senate, if he is not less than thirty years old,
- (b) of the House of Representatives, if he is not less than twenty-one years old,

unless he is disqualified for being a member by this Constitution or by any law made in pursuance of Article 48.

48. (1) Subject to the provisions of this Article, a person is disqualified for being a member of either House of Parliament if—

- (a) he is and has been found or declared to be of unsound mind; † or
- (b) he is an undischarged bankrupt; † or
- (c) he holds an office of profit;* or
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly of a State, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required; ‡ or
- (e) he has been convicted of an offence by a court of law in the Federation (or, before Malaysia Day, in the territories comprised in a Borneo State or in Singapore) and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon; or
- (f) he has voluntarily acquired citizenship of, or exercised rights of citizenship in a foreign country# or has made a declaration of allegiance to a foreign country.

* See the Bankruptcy Ordinance, 1959 (No. 20 of 1959).

† See the definition in Article 160 (2).

‡ See the Election Offences Ordinance, 1954, section 23.

This does not include any part of the Commonwealth, or the Republic of Ireland.

(2) Federal law may impose, for such periods as may be specified thereby, disqualification for membership of either House of Parliament on persons committing offences in connection with elections; and any person who has been convicted of such an offence or has in proceedings relating to an election been proved guilty of an act constituting such an offence, shall be disqualified accordingly for the period so specified. §

(3) The disqualification of a person under paragraph (d) or paragraph (e) of Clause (1) may be removed by the Yang di-Pertuan Agong and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was required to be lodged, or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed on such person, and a person shall not be disqualified under paragraph (f) of Clause (1) by reason only of anything done by him before he became a citizen.

49. A person shall not at the same time be a member of both Houses of Parliament, nor be elected to the House of Representatives for more than one constituency or to the Senate for more than one State, nor be both an elected and an appointed member of the Senate.

50. (1) If a member of either House of Parliament becomes disqualified for membership of that House his seat shall become vacant.

(2) If a person disqualified for being a member of the House of Representatives is elected to that House or if a person disqualified for being a member of the Senate is elected or appointed to the Senate, or if an election or appointment to either House is contrary to Article 49, the election or appointment shall be void.

(3) *(Repealed by 25 of 1963).*

(4) A person cannot be validly nominated for election to membership of either House or appointed to the Senate without his consent.

51. A member of either House of Parliament may resign his membership by writing under his hand addressed, if he is a member of the Senate, to the President of the Senate, and if a member of the House of Representatives, to the Speaker of that House.

§ See the Election Offences Ordinance, 1954, section 27.

52. If a member of either House of Parliament is without the leave of the House absent from every sitting of the House for a period of six months the House may declare his seat vacant.

53. If any question arises whether a member of a House of Parliament has become disqualified for membership, the decision of that House shall be taken and shall be final:

Provided that this Article shall not be taken to prevent the practice of the House postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

54. Whenever there is a casual vacancy* among the members of either House of Parliament it shall be filled within sixty days from the date on which it is established that there is a vacancy, and an election shall be held or an appointment made accordingly.

55. (1) The Yang di-Pertuan Agong shall from time to time summon Parliament and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first meeting in the next session.

(2) The Yang di-Pertuan Agong may prorogue† or dissolve‡ Parliament.

(3) Parliament unless sooner dissolved shall continue for five years from the date of its first meeting and shall then stand dissolved.

(4) Whenever Parliament is dissolved a general election shall be held within sixty days from the date of the dissolution and Parliament shall be summoned to meet on a date not later than ninety days from that date.

56. (1) The Senate shall from time to time choose one of its members to be Yang di-Pertua Dewan Negara (President of the Senate) and one to be Deputy President of the Senate, and shall transact no business while the office of President is vacant other than the election of a President.

(2) A member holding office as President or Deputy President shall cease to hold his office on the expiry of the term for which he was elected or appointed a member or on otherwise ceasing to be a member of the Senate and may at any time resign his office.

* For definition, see Article 160(2).

† Prorogation ends a session of Parliament: See Standing Orders of the Dewan Ra'ayat, Standing Order 98.

‡ See Article 40(2)(b).

(3) During any absence of the President from any sitting the Deputy President or, if he also is absent, such other member as may be determined by the rules of procedure of the Senate, shall act as President.

(4) If a member of the Legislative Assembly of a State is chosen to be President he shall resign from the Assembly before exercising the functions of his office.

57. (1) The House of Representatives shall from time to time choose one of its members to be Yang di-Pertua Dewan Ra'ayat (Speaker) and one to be Deputy Speaker, and shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(2) A member holding office as Speaker or Deputy Speaker shall vacate his office on ceasing to be a member of the House of Representatives and may at any time resign his office.

(3) During any absence of the Speaker from a sitting of the House of Representatives the Deputy Speaker or, if he also is absent, such other member as may be determined by the rules of procedure of the House, shall act as Speaker.

(4) If a member of the Legislative Assembly of a State is chosen to be Speaker he shall resign from the Assembly before exercising the functions of his office.

58. Parliament shall by law* provide for the remuneration of the President and Deputy President of the Senate and the Speaker and Deputy Speaker of the House of Representatives, and the remuneration so provided for the President of the Senate and the Speaker of the House of Representatives shall be charged on the Consolidated Fund.

59. (1) Every member of either House of Parliament shall before taking his seat take and subscribe before the person presiding in the House an oath in the form set out in the Sixth Schedule, but a member may before taking that oath take part in the election of a President of the Senate or Speaker of the House of Representatives.

(2) If a member has not taken his seat within three months from the date on which the House first sits after his election or such further time as the House may allow, his seat shall become vacant.

60. The Yang di-Pertuan Agong may address either House of Parliament or both Houses jointly.

* See the President of the Senate (Remuneration) Act, 1960 (No. 2 of 1960) and the Speaker (Remuneration) Act, 1960 (No. 7 of 1960).

61. (1) In addition to his rights as a member of one of the Houses of Parliament every member of the Cabinet shall have the right to take part in the proceedings of the other House.

(2) Either House of Parliament may appoint as a member of any of its committees the Attorney General or any member of the Cabinet notwithstanding that he is not a member of that House.

(3) This Article does not authorise any person who is not a member of a House to vote in that House or any of its committees.

(4) In this Article "member of the Cabinet" includes an Assistant Minister.

62. (1) Subject to the provisions of this Constitution and of federal law, each House of Parliament shall regulate its own procedure.*

(2) Each House may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled thereto shall not invalidate any proceedings.

(3) Subject to Clause (4) and to Article 89(1) and 159(3) and to sections 10 and 11 of the Thirteenth Schedule, each House shall, if not unanimous, take its decision by a simple majority of members voting; and the person presiding shall cast his vote whenever necessary to avoid an equality of votes, but shall not vote in any other case.

(4) In regulating its procedure each House may provide, as respects any decision relating to its proceedings, that it shall not be made except by a specified majority or by a specified number of votes.

(5) Members absent from a House shall not be allowed to vote.

63. (1) The validity of any proceedings in either House of Parliament or any committee thereof shall not be questioned in any court.

(2) No person shall be liable to any proceedings in any court in respect of anything said or any vote given by him when taking part in any proceedings of either House of Parliament or any committee thereof.

(3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of either House of Parliament.

* See the Standing Orders of the Dewan Ra'ayat (1960) and the Standing Orders of the Dewan Negara (1960), as well as the Houses of Parliament (Privileges and Powers) Ordinance, 1952.

64. Parliament shall by law provide for the remuneration of members of each House.†

65. (1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives.

(2) The Clerk to the Senate and the Clerk to the House of Representatives shall be appointed by the Yang di-Pertuan Agong and, subject to Clause (3), each shall hold office until he attains the age of sixty years or such other age as Parliament may by law provide, unless he sooner resigns his office.

(3) The Clerk to the Senate and the Clerk to the House of Representatives may be removed from office on the like grounds and in the like manner as a judge of the Federal Court, except that the representation mentioned in Article 125(3) shall be a representation made by the President of the Senate or, as the case may be, the Speaker of the House of Representatives.

(4) Except as otherwise expressly provided by this Article, the qualifications for appointment and conditions of service of the Clerk to the Senate and the Clerk to the House of Representatives, and of members of the staff of the Houses of Parliament, may be regulated by federal law.‡

(5) The Clerk to the Senate, the Clerk to the House of Representatives and members of the staff of Parliament are disqualified for being members of either House of Parliament or the Legislative Assembly of any State.

CHAPTER V

LEGISLATIVE PROCEDURE

66. (1) The power of Parliament to make laws shall be exercised by Bills passed by both Houses (or, in the cases mentioned in Article 68, the House of Representatives) and assented to by the Yang di-Pertuan Agong.

(2) Subject to Article 67, a Bill may originate in either House.

(3) When a Bill has been passed by the House in which it originated it shall be sent to the other House; and it shall be presented to the Yang di-Pertuan Agong for his assent when it has been passed by the other

† See the Parliament (Members' Remuneration) Act, 1960 (No. 4 of 1960).

‡ See Parliamentary Service Act, 1963 (No. 12 of 1963).

House and agreement has been reached between the two Houses on any amendments made in it or when it is required to be so presented under Article 68.

(4) The Yang di-Pertuan Agong shall signify his assent to a Bill by causing the Public Seal to be affixed thereto, and after assenting to a Bill he shall cause it to be published as a law.

(5) A Bill shall become law on being assented to by the Yang di-Pertuan Agong, but no law shall come into force until it has been published, without prejudice, however, to the power of Parliament to postpone the operation of any law or to make laws with retrospective effect.

(6) Nothing in this Article or in Article 68 shall invalidate any law confirming an undertaking given by the Federal Government to the effect that a Bill to which the undertaking relates shall not be presented to the Yang di-Pertuan Agong for his assent except in accordance with the undertaking.

67. (1) A Bill or amendment making provision (whether directly or indirectly) for—

- (a) imposing or increasing any tax or abolishing, reducing or remitting any existing tax, or
- (b) the borrowing of money, or the giving of any guarantee, by the Federation, or the amendment of the law relating to the financial obligations of the Federation;
- (c) the custody of the Consolidated Fund, the charging of any money on the Consolidated Fund or the abolition or alteration of any such charge;
- (d) the payment of moneys into the Consolidated Fund or the payment, issue or withdrawal from the Consolidated Fund of any moneys not charged thereon, or any increase in the amount of such a payment, issue or withdrawal;
- (e) the compounding or remission of any debt due to the Federation;
- (f) the assignment of a tax or fee or the making of a grant to any State;
- (g) the receipt of moneys on account of the Consolidated Fund or the custody or issue of such moneys or the audit of the accounts of the Federation or a State;

being provision as respects which the Minister charged with responsibility for finance signifies that it goes beyond what is incidental only and not of a substantial nature having regard to the purposes of the Bill or amendment shall not be introduced or moved except by a Minister, and a Bill making any such provision shall not be introduced in the Senate.

(2) A Bill or amendment shall not be deemed to make provision for any of the said matters by reason only that it provides—

- (a) for the imposition or alteration of any fine or other pecuniary penalty or for the payment or demand of a licence fee or a fee or charge for any service rendered; or
- (b) for the imposition, alteration or regulation of any tax or rate by any local authority or body for local purposes.

68. (1) Where a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within a month, it shall be presented to the Yang di-Pertuan Agong for his assent unless the House of Representatives otherwise directs.

(2) Where—

- (a) a Bill which is not a money Bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree; and
- (b) in the following session (whether of the same Parliament or not) but not earlier than one year after it was first passed by the House of Representatives the same Bill, with no other alterations than those mentioned in Clause (3), is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree,

the Bill shall, unless the House of Representatives otherwise directs, be presented to the Yang di-Pertuan Agong for his assent with such amendments, if any, as may have been agreed to by both Houses.

(3) The alterations referred to in Clause (2) are alterations certified by the Speaker of the House of Representatives to be necessary owing to the

time which has elapsed since the Bill was passed in the earlier session or to represent amendments made in that session by the Senate.

(4) When a Bill is presented to the Yang di-Pertuan Agong in pursuance of this Article it shall bear a certificate of the Speaker of the House of Representatives that the provisions of this Article have been complied with, and that certificate shall be conclusive for all purposes and shall not be questioned in any court.

(5) This Article does not apply to any Bill for making any amendment to this Constitution, other than an amendment excepted from the provisions of Article 159(3).

(6) In this Article "money Bill" means a Bill which, containing in the opinion of the Speaker of the House of Representatives only provisions dealing with all or any of the following matters, that is to say—

- (a) the matters mentioned in Article 67(1) or the regulation of any tax,
- (b) the reduction of any such amount is mentioned in paragraph (d) of Article 67(1); and
- (c) any matter incidental to those matters or any of them,

is certified by him as a money Bill.

CHAPTER VI

CAPACITY AS RESPECTS PROPERTY, CONTRACT AND SUITS

69. (1) The Federation has power to acquire, hold and dispose of property of any kind and to make contracts.

(2) The Federation may sue and be sued.*

PART V

THE STATES

†70. (1) Subject to the precedence of the Yang di-Pertuan Agong and his Consort, the Rulers and Governors of the States shall take precedence over all other persons and each Ruler or Governor shall in his own State take precedence over the other Rulers and Governors.

* See the Government Proceedings Ordinance, 1956 (No. 58 of 1956).

† See Article 159(5)

(2) Subject to Clause (1), the Rulers shall take precedence over the Governors and, among themselves, in accordance with the dates on which they acceded as Rulers, and the Governors shall take precedence among themselves in accordance with the dates on which they were appointed as Governors; and if Governors were appointed on the same day the older shall take precedence over the younger.

71. (1) The Federation shall guarantee the right of a Ruler of a State to succeed and to hold, enjoy and exercise the constitutional rights and privileges of Ruler of that State in accordance with the Constitution of that State; but any dispute as to the title to the succession as Ruler of any State shall be determined solely by such authorities and in such manner as may be provided by the Constitution of that State.

(2) Clause (1) shall, with the necessary modifications apply in relation to a Ruling Chief of Negri Sembilan as it applies to the Ruler of a State.

(3) If it appears to Parliament that in any State any provision of this Constitution or of the Constitution of that State is being habitually disregarded Parliament may, notwithstanding anything in this Constitution, by law make provision for securing compliance with those provisions.

(4) If at any time the Constitution of any State does not contain the provisions set out in Part I of the Eighth Schedule, with or without the modifications allowed under Clause (5) (hereinafter referred to as "the essential provisions") or provisions substantially to the same effect, or contains provisions inconsistent with the essential provisions, Parliament may, notwithstanding anything in this Constitution, by law make provision for giving effect in that State to the essential provisions or for removing the inconsistent provisions.

(5) The provisions set out in Part I of the Eighth Schedule may be modified by substituting for section 2 or section 4 or both the provisions set out in Part II of that Schedule as an alternative thereto—

- (a) in the case of every State, until the dissolution of the second Legislative Assembly constituted in accordance with those provisions or those provisions so modified;
- (b) in the case of Perlis, until such further time as the Legislative Assembly of that State may resolve and, as respects the provision set out in section 2 of that Schedule, indefinitely.

(6) A law made for a State in pursuance of this Article shall, unless sooner repealed by Parliament, cease to have effect on such day as a new Legislative Assembly, constituted in that State after the passing of the law, may resolve.

(7) In relation to a Borneo State—

- (a) Clause (5) shall not apply; but
- (b) until the end of August, 1957, or such earlier date as the Yang di-Pertuan Agong with the concurrence of the Governor may by order direct, Clause (4) shall apply as if the reference to the modifications allowed under Clause (5) were a reference to the modifications made by the Constitution of the State as in force on Malaysia Day.

(8) In relation to Singapore Clauses (4) to (6) shall not apply, but no enactment of the Legislature of Singapore making in the Constitution of the State amendments relating to any matter dealt with by the provisions set out in Part I of the Eighth Schedule (as it applies to Singapore) shall have effect unless—

- (a) the amendments do not materially affect the operation of the Constitution in relation to those matters; or
- (b) the effect of the amendments is confined to inserting provisions so set out or provisions substantially to the same effect (whether or not in substitution for other provisions) or to removing provisions inconsistent with the provisions so set out; or
- (c) the enactment is approved by Act of Parliament.

72. (1) The validity of any proceedings in the Legislative Assembly of any State shall not be questioned in any court.

(2) No person shall be liable to any proceedings in any court in respect of anything said or any vote given by him when taking part in proceedings of the Legislative Assembly of any State or of any committee thereof.

(3) No person shall be liable to any proceedings in any court in respect of anything published by or under the authority of the Legislative Assembly of any State.

PART VI
RELATIONS BETWEEN THE FEDERATION AND THE
STATES

CHAPTER I

DISTRIBUTION OF LEGISLATIVE POWERS

73. In exercising the legislative powers conferred on it by this Constitution—

- (a) Parliament may make laws for the whole or any part of the Federation and laws having effect outside as well as within the Federation; and
- (b) the Legislature of a State may make laws for the whole or any part of that State.

*74. (1) Without prejudice to any power to make laws conferred on it by any other Article, Parliament may make laws with respect to any of the matters enumerated in the Federal List or the Concurrent List (that is to say, the First or Third List set out in the Ninth Schedule).

(2) Without prejudice to any power to make laws conferred on it by any other Article the Legislature of a State may make laws with respect to any of the matters enumerated in the State List (that is to say, the Second List set out in the Ninth Schedule) or the Concurrent List.

(3) The power to make laws conferred by this Article is exercisable subject to any conditions or restrictions imposed with respect to any particular matter by this Constitution.

(4) Where general as well as specific expressions are used in describing any of the matters enumerated in the Lists set out in the Ninth Schedule the generality of the former shall not be taken to be limited by the latter.

* This Article is derived from Article 68 of the draft Constitution prepared by the Constitutional Commission. That article included, however, a clause providing that nothing in the Article should "render invalid any provision of a federal law if in pith and substance it relates to any of the matters enumerated in the Federal List or the Concurrent List or render invalid any provision of a State law if in pith and substance it relates to any of the matters enumerated in the State List or the Concurrent List". This clause is not included in Article 74 but it expresses a principle of interpretation that may be adopted in the construction of Article 74 *see, for example, Russell v. The Queen* (1881) 7 A C. 829, *Ladore v. Bennett* (1939) A C. 468, and also Basu, *Commentary on the Constitution of India*, Sarkar and Sons, Calcutta (Third edition), Vol. II, p. 221.

75. If any State Law is inconsistent with a federal law, the federal law shall prevail and the State law shall, to the extent of the inconsistency, be void.

76. (1) Parliament may make laws with respect to any matter enumerated in the State List, but only as follows, that is to say—

- (a) for the purpose of implementing any treaty, agreement or convention between the Federation and any other country, or any decision of an international organisation of which the Federation is a member,* or
- (b) for the purpose of promoting uniformity of the laws of two or more States; or
- (c) if so requested by the Legislative Assembly of any State.

(2) No law shall be made in pursuance of paragraph (a) of Clause (1) with respect to any matters of Muslim law or the custom of the Malays or to any matters of native law or custom in the Borneo States and no Bill for a law under that paragraph shall be introduced into either House of Parliament until the Government of any State concerned has been consulted.

(3) Subject to Clause (4), a law made in pursuance of paragraph (b) or paragraph (c) of Clause (1) shall not come into operation in any State until it has been adopted by a law made by the Legislature of that State, and shall then be deemed to be a State law and not a federal law, and may accordingly be amended or repealed by a law made by that Legislature.

†(4) Parliament may, for the purpose only of ensuring uniformity of law and policy, make laws with respect to land tenure, the relations of landlord and tenant, registration of titles and deeds relating to land, transfer of land, mortgages, leases and charges in respect of land, easements and other rights and interests in land, compulsory acquisition of land, rating and valuation of land, and local government;‡ and Clauses (1) (b) and (3) shall not apply to any law relating to any such matter.

76A. (1) It is hereby declared that the power of Parliament to make laws with respect to a matter enumerated in the Federal List includes power to authorise the Legislatures of the States or any of them, subject to such conditions or restrictions (if any) as Parliament may impose, to make laws with respect to the whole or any part of that matter.

* See Article 169.

† See Article 80(3).

‡ See Article 95A(b).

(2) Notwithstanding Article 75, a State law made under authority conferred by Act of Parliament as mentioned in Clause (1) may, if and to the extent that the Act so provides, amend or repeal (as regards the State in question) any federal law passed before that Act.

(3) Any matter with respect to which the Legislature of a State is for the time being authorised by Act of Parliament to make laws shall for purposes of Articles 79, 80 and 82 be treated as regards the State in question as if it were a matter enumerated in the Concurrent List.

77. The Legislature of a State shall have power to make laws with respect to any matter not enumerated in any of the Lists set out in the Ninth Schedule, not being a matter in respect of which Parliament has power to make laws.

78. In so far as any law made by Parliament or any regulation made in pursuance of such a law restricts the rights of a State or its residents to the use for navigation or irrigation of any river wholly within that State it shall not have effect in that State unless it has been approved by a resolution of the Legislative Assembly of that State supported by a majority of the total number of its members.

*79. (1) Where it appears to the presiding officer of either House of Parliament or of the Legislative Assembly of any State that a Bill or an amendment to a Bill proposes a change in the law relating to any of the matters enumerated in State List with respect to which the Federation is exercising functions in accordance with Article 94, he shall certify the Bill or amendment for the purposes of this Article.

(2) A Bill or amendment certified under this Article shall not be proceeded with until four weeks have elapsed since its publication, unless the presiding officer, being satisfied that the State Governments, or as the case may be, the Federal Government, have been consulted, allows it to be proceeded with on the ground of urgency.

CHAPTER II

DISTRIBUTION OF EXECUTIVE POWERS

†80. (1) Subject to the following provisions of this Article the executive authority of the Federation extends to all matters with respect

* See Articles 92(2), 149(1) and 150(6)

† But see Article 150(4)

to which Parliament may make laws, and the executive authority of a State to all matters with respect to which the Legislature of that State may make laws.

(2) The executive authority of the Federation does not extend to any matter enumerated in the State List, except in so far as is provided in Articles 93 to 95, nor to any matter enumerated in the Concurrent List, except in so far as may be provided by federal or State law; and so far as federal or State law confers executive authority on the Federation with respect to any matter enumerated in the Concurrent List it may do so to the exclusion of the executive authority of the State.

(3) So far as a law made under Article 76 (4) makes provision for conferring executive authority on the Federation it shall not operate in any State unless approved by resolution of the Legislative Assembly of that State.

(4) Federal law may provide that the executive authority of a State shall extend to the administration of any specified provisions of federal law and may for that purpose confer powers and impose duties on any authority of the State.

(5) Subject to any provisions of federal or State law, arrangements may be made between the Federation and a State for the performance of any functions by the authorities of the one on behalf of the authorities of the other and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

(6) Where, in pursuance of Clause (4), any functions are conferred by federal law on any authority of a State the Federation shall make such payments to the State as may be agreed between the Federation and the State or as may in default of agreement be determined by a tribunal appointed by the Lord President of the Federal Court.

***81.** The executive authority of every State shall be so exercised—

- (a) as to ensure compliance with any federal law applying to that State; and
- (b) as not to impede or prejudice the exercise of the executive authority of the Federation.

* But see Articles 93(2), 94 and 95.

CHAPTER III

DISTRIBUTION OF FINANCIAL BURDENS

82. Where any law or executive action relating to any of the matters enumerated in the Concurrent List involves expenditure, such action shall be taken under this Constitution as will ensure that, unless otherwise agreed, the burden of that expenditure is borne—

- (a) by the Federation, if the expenditure results either from federal commitments or from State commitments undertaken in accordance with federal policy and with the specific approval of the Federal Government;
- (b) by the State or States concerned, if the expenditure results from State commitments undertaken by the State or States on its or their own authority.

CHAPTER IV

LAND*

83. (1) If the Federal Government is satisfied that land in a State, not being alienated land, is needed for federal purposes, that Government may, after consultation with the State Government, require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation, or to such public authority as the Federal Government may direct, such grant of the land as the Federal Government may direct:

Provided that the Federal Government shall not require the grant of any land reserved for a State purpose unless it is satisfied that it is in the national interest so to do.

(2) Where in accordance with Clause (1) the Federal Government requires the State Government to cause to be made a grant of land in perpetuity, the grant shall be made without restrictions as to the use of the land but shall be subject to the payment annually of an appropriate

* Parliament must by law provide for modifying Articles 83 to 87 in their application to Malacca and Penang: *see* Article 88. No particular law under this Article has so far been enacted but on land acquisition generally *see* the Land Acquisition Act, 1960 (No. 34 of 1960).

quit rent and the Federation shall pay to the State a premium equal to the market value for the grant; and where the Federal Government so requires the State Government to cause to be granted any other interest in land, the Federation shall pay to the State the just annual rent therefor and such premium, if any is required by the State Government, as may be just:

Provided that if the value of the land has been increased by means of any improvement made (otherwise than at the expense of the State) while the land was reserved for federal purposes, the increase shall not be taken into consideration in determining the market value, rent or premium for the purposes of this clause.

(3) Where a requirement is made under Clause (1) in respect of any land which, at the date of the requirement, was intended for any State purpose, then if—

- (a) other land is acquired by the State for that purpose in substitution for the first-mentioned land; and
- (b) the cost of the land so acquired exceeds the amount paid by the Federation (otherwise than as rent) in accordance with Clause (2) in respect of the interest granted to the Federation,

the Federation shall pay to the State such sum as may be just in respect of the excess.

(4) Where a further grant is made in pursuance of this Article in respect of land an interest in which is vested in the Federation or any public authority, any sums payable by way of premium under Clause (2) in respect of the further grant shall be reduced by an amount equal to the market value of any improvements made (otherwise than at the expense of the State) since that interest became vested as aforesaid.

(5) The foregoing provisions of this Article (except Clause (3)) shall apply in relation to alienated land as they apply in relation to land not being alienated land, but subject to the following modifications:

- (a) in Clause (1), the words "after consultation with the State Government" shall be omitted;
- (b) where a requirement is made under that clause, it shall be the duty of the State Government to cause to be acquired by agreement or compulsorily such interest in the land as may be necessary for complying with the requirement;

- (c) any expenses incurred by the State in or in connection with the acquisition of land in accordance with paragraph (b) shall be repaid by the Federation, except that if the acquisition is by agreement the Federation shall not, unless it is party to the agreement, be liable to pay more than it would have paid on a compulsory acquisition;
- (d) any sums paid by the Federation to the State in accordance with paragraph (c) shall be taken into consideration in determining for the purposes of Clause (2) the market value, the appropriate quit rent or the just annual rent, and shall be deducted from any premium to be paid by the Federation under that clause.

(6) Where a grant is made to the Federation in pursuance of Clause (1) in respect of land which, or an interest in which, was acquired by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, paragraph (d) of Clause (5) shall apply to the sums paid in respect of the acquisition by the Government of the Federation of Malaya as if they were sums paid by the Federation in accordance with paragraph (c) of Clause (5); and Clause (3) shall not apply to any such land.

(7) Nothing in this Article shall prevent the reservation of land in a State for federal purposes on such terms and conditions as may be agreed between the Federal Government and the Government of the State, or affect the power of the appropriate authority in a State to acquire in accordance with any law for the time being in force any alienated land for federal purposes without a requirement by the Federal Government under this Article.

84. (1) Where any interest in land in a State vested in the Federation or a public authority for federal purposes ceases to be required for federal purposes, it shall revert to that State if the State Government agrees to pay to the Federation—

- (a) in a case where the land, or an interest therein, was acquired by the State Government in pursuance of Clause (5) of Article 83, or was acquired by the State Government at the expense of the Government of the Federation of Malaya before Merdeka Day, an amount equal to the market value of the interest vested in the Federation or public authority;

(b) in any other case, at the option of the State Government, either—

- (i) an amount equal to the market value of that interest; or
- (ii) an amount equal to the sums paid (otherwise than as rent) by the Federation, or by the Government of the Federation of Malay before Merdeka Day, in respect of the grant of that interest, together with the market value of any improvements made (otherwise than at the expense of the State) to the land after that grant.

(2) Where any interest in land to which Clause (1) applies does not revert to the State in accordance with that clause, the Federal Government or the public authority, as the case may be, may sell the interest on such terms and conditions as that Government or authority may think fit.

85. (1) Where any land in a State which is reserved for any federal purposes ceases to be required for those purposes, the Federal Government shall offer to release the land to the State on condition that the State pays to the Federation—

- (a) the market value of any improvements made (otherwise than at the expense of the State) while the land was in use for federal purposes; and
- (b) the amount, if any, paid by the Federation, or paid before Merdeka Day by the Government of the Federation of Malaya, in respect of the cost of acquisition of any interest in the land by the State Government;

and if the State Government accepts the offer the reservation shall cease.

(2) Where the State Government does not accept an offer made in accordance with Clause (1), then, unless by agreement between the Federal Government and the State Government the land is reserved for another federal purpose, the Federal Government may require the State Government, and it shall then be the duty of that Government, to cause to be made to the Federation a grant of the land in perpetuity without restrictions as to the use of the land, but subject to the payment of a premium equal to the market value of the land reduced by the amounts which would have been payable to the Federation under Clause (1) if the said offer had been accepted, and to the payment annually of an

appropriate quit rent; and where such a grant is made to the Federation, the Federal Government may sell and transfer or lease the land on such terms and conditions as it may think fit.

(3) Except as provided by this Article, land in a State which is reserved for federal purposes shall not cease to be so reserved, and all land so reserved shall be controlled and managed by or on behalf of the Federal Government.

86. (1) Where any interest in land is vested in the Federation, the Federation may, subject to Article 84 and to Clause (2) of this Article, dispose of that interest or any smaller interest in the land.

(2) Every such disposition of an interest in land shall be made conditional on the land being used for a federal purpose specified therein, and no such disposition shall be made to a person other than a public authority except—

- (a) under and in accordance with the provisions of federal law; or
- (b) by an order of the Yang di-Pertuan Agong laid and approved in accordance with Clause (3):

Provided that nothing in this clause shall apply to a disposition authorised by Article 84 or Article 85, or to a disposition by the Federation to any person for the purposes of the implementation of any treaty, agreement or convention with any other country, or to any person in his capacity as consular or diplomatic representative of any other country.

(3) An order of the Yang di-Pertuan Agong under paragraph (b) of Clause (2) shall be laid before both Houses of Parliament and shall not take effect until it is approved by resolution of each House.

(4) Except as provided by Article 84, no interest in land vested for federal purposes in a public authority, or vested in any other person by virtue of a disposition under this Article, shall be disposed of by that authority or person otherwise than to the Federation.

(5) Where any interest in land in a State is disposed of by or to the Federation or any public authority in pursuance of this Article or of Article 84 or 85, it shall be the duty of the Government of that State to register the transaction accordingly.

87. (1) Where any dispute arises between the Federal Government and a State Government as to the making of any payment by or to the Federation under the foregoing Articles of this Chapter, or as to the amount of any such payment, the dispute shall be referred, at the instance

either of the Federal Government or of the State Government, to the Lands Tribunal appointed in accordance with this Article.

(2) The Lands Tribunal shall consist of—

- (a) a chairman, who shall be appointed by the Lord President of the Federal Court and who shall be, or have been, or be qualified to be a judge of the Federal Court or High Court, or shall before Malaysia Day have been a judge of the Supreme Court;
- (b) a member who shall be appointed by the Federal Government; and
- (c) a member who shall be appointed by the State Government.

(3) The practice and procedure of the Lands Tribunal shall be regulated by rules of court framed by the Rule Committee or other authority having power under written law to make rules or orders regulating the practice and procedure of the Federal Court.

(4) An appeal shall lie from the Lands Tribunal to the Federal Court on any question of law.

88. In their application to any of the States not having a Ruler, Articles 83 to 87 shall have effect—

- (a) subject to such adaptations (if any) as Parliament may by law provide, being adaptations required to secure that they apply (as nearly as practicable having regard to differences in the system of land tenure) in the same manner as they apply to other States; and
- (b) in the case of the Borneo States and Singapore with the omission in Article 83 of paragraph (a) of Clause (5).

89. (1) Any land in a State which immediately before Merdeka Day was a Malay reservation in accordance with the existing law may continue as a Malay reservation in accordance with that law until otherwise provided by an Enactment of the Legislature of that State, being an Enactment—

- (a) passed by a majority of the total number of members of the Legislative Assembly and by the votes of not less than two-thirds of the members present and voting; and
- (b) approved by resolution of each House of Parliament passed by a majority of the total number of members of that House and by the votes of not less than two-thirds of the members voting.

(2) Any land in a State which is not for the time being a Malay reservation in accordance with the existing law and has not been developed or cultivated may be declared as a Malay reservation in accordance with that law:

Provided that—

- (a) where any land in a State is declared a Malay reservation under this clause, an equal area of land in that State which has not been developed or cultivated shall be made available for general alienation; and
- (b) the total area of land in a State for the time being declared as a Malay reservation under this clause shall not at any time exceed the total area of land in that State which has been made available for general alienation in pursuance of paragraph (a).

(3) Subject to Clause (4), the Government of any State may, in accordance with the existing law, declare as a Malay Reservation—

- (a) any land acquired by that Government by agreement for that purpose;
- (b) on the application of the proprietor, and with the consent of every person having a right or interest therein, any other land;
- (c) in a case where any land ceases to be a Malay reservation, any land of a similar character and of an area not exceeding the area of that land.

(4) Nothing in this Article shall authorise the declaration as a Malay reservation of any land which at the time of the declaration is owned or occupied by a person who is not a Malay or in or over which such a person has then any right or interest.

(5) Without prejudice to Clause (3), the Government of any State may, in accordance with law, acquire land for the settlement of Malays or other communities, and establish trusts for that purpose.

(6) 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 land.

(7) Subject to Article 161A this Article shall have effect notwithstanding any other provision of this Constitution; but (without

prejudice to any such other provision) no land shall be retained or declared as a Malay reservation except as provided by this Article and Article 90.

90. (1) Nothing in this Constitution shall affect the validity of any restrictions imposed by law on the transfer or lease of customary land in the State of Negri Sembilan or the State of Malacca, or of any interest in such land.

(2) Notwithstanding anything in this Constitution, the existing law in the State of Trengganu with respect to Malay holdings shall continue in force until otherwise provided by an Enactment of the Legislature of that State passed and approved as described in Clause (1) of Article 89.

(3) Any such Enactment of the Legislature of the State of Trengganu may make provision for Malay reservations corresponding with the existing law in force in any other State of a Ruler; and in that event the said Article 89 shall have effect in relation to Trengganu subject to the following modifications, that is to say—

- (a) in Clause (1), for the reference to land which immediately before Merdeka Day was a Malay reservation in accordance with the existing law, there shall be substituted a reference to land which, immediately before the passing of the said Enactment, was a Malay holding; and
- (b) subject as aforesaid, any reference to the existing law shall be construed as a reference to the said Enactment.

91. (1) There shall be a National Land Council consisting of a Minister as chairman, one representative from each of the States, who shall be appointed by the Ruler or Governor, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.

(2) The chairman may vote on any question before the National Land Council but shall not have a casting vote.

(3) The National Land Council shall be summoned to meet by the chairman as often as he considers necessary but there shall be at least one meeting in every year.

(4) If the chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.

(5) It shall be the duty of the National Land Council to formulate from time to time in consultation with the Federal Government, the State Governments and the National Finance Council a national policy for the promotion and control of the utilisation of land throughout the Federation for mining, agriculture, forestry or any other purpose, and for the administration of any laws relating thereto; and the Federal and State Governments shall follow the policy so formulated.

(6) The Federal Government or the Government of any State may consult the National Land Council in respect of any other matter relating to the utilisation of land or in respect of any proposed legislation dealing with land or of the administration of any such law, and it shall be the duty of the National Land Council to advise that Government on any such matters.

CHAPTER V

NATIONAL DEVELOPMENT

92. (1) If, after a recommendation from an expert committee and after consultation with the National Finance Council, the National Land Council and the Government of any State concerned, the Yang di-Pertuan Agong is satisfied that it is conducive to the national interest that a development plan be put into operation in any area or areas in one or more of the States, the Yang di-Pertuan Agong may, after publishing the plan, proclaim the area or areas as a development area; and thereupon Parliament shall have power to give effect to the development plan or any part thereof, notwithstanding that any of the matters to which the plan relates are matters with respect to which, apart from this Article, only States would have power to make laws.

(2) Any Act passed in pursuance of this Article shall recite that it has been so passed and that the provisions of Clause (1) have been complied with; and Article 79 shall not apply to any Bill for such an Act or any amendment to such a Bill.

(3) In this Article, "development plan" means a plan for the development, improvement, or conservation of the natural resources of a development area, the exploitation of such resources, or the increase of means of employment in the area.

(4) Without prejudice to their power under any other Article to require any interest in land to be acquired or granted for federal purposes, the

Federal Government may from time to time require the reservation for the purposes of a development plan, to such extent as they may specify, of any land in a development area which is not occupied by private persons; but any diminution, in consequence of the reservation, of the annual revenue received by a State shall be made good to the State by the Federation.

(5) All income received by the Federation through the operation of a development plan shall, subject to Clause (6), be applied—

- (a) in the first instance, for the provision of capital and the meeting of working expenses for the development plan;
- (a) in the second instance, for the repayment to the Federation of any expenditure, including expenditure under Clause (4), incurred by the Federation in operating the plan; and
- (c) as to the balance, for payments to the State in which the development area is situated or, if it is situated in two or more States, to those States in such proportions as the Federal Government may determine.

(6) If it is agreed between the Federal Government and the Government of any State which includes the whole or any part of the development area that any expenditure incurred in operating the development plan is to be met by the State, any expenditure so met shall be repaid to the State and the repayment shall rank *pari passu* with the repayment to the Federation of any expenditure incurred by the Federation.

(7) Parliament may repeal or amend any Act passed in pursuance of this Article, and for that purpose may make such incidental and consequential provisions as it may consider necessary.

(8) Nothing in this Article shall affect the power of Parliament or of the Legislature of any State—

- (a) to impose such taxes or rates as it is authorised to impose under any other provision of this Constitution; or
- (b) to make from the Federal Consolidated Fund or the State Consolidated Fund, as the case may be, grants not repayable under Clause (5) or (6);

except that where, in pursuance of Clause (1), a rate is imposed on any property by federal law which, but for this Article, might have been imposed by State law, no rate of the same kind shall be imposed by State law for any period for which the rate imposed by federal law is payable.

CHAPTER VI
FEDERAL SURVEYS, ADVICE TO STATES AND INSPECTION
OF STATE ACTIVITIES*

93. (1) The Federal Government may conduct such inquiries (whether by Commission or otherwise), authorise such surveys and collect and publish such statistics as it thinks fit, notwithstanding that such inquiries, surveys and collection and publication of statistics relate to a matter with regard to which the Legislature of a State may make laws.

(2) It shall be the duty of the Government of a State, and of all officers and authorities thereof, to assist the Federal Government in the execution of its powers under this Article; and for this purpose the Federal Government may give such directions as it may deem necessary.

†**94.** (1) The executive authority of the Federation extends to the conduct of research, the provision and maintenance of experimental and demonstration stations, the giving of advice and technical assistance to the Government of any State, and the provision of education, publicity, and demonstration for the inhabitants of any State, in respect of any of the matters with respect to which the Legislature of a State may make laws; and the agricultural and forestry officers of any State shall accept any professional advice given to the Government of that State under this clause.

(2) Notwithstanding anything in this Constitution, the existing Departments of Agriculture, Commissioner of Lands, Forestry and Social Welfare may continue to exercise the functions exercised by them immediately before Merdeka Day.

(3) Nothing in this Constitution shall prevent the Federal Government from establishing Ministries or Departments of Government to exercise the functions of the Federal Government under Article 93 and this Article in relation to matters within the legislative authority of a State, and such matters may include soil conservation, local government and town and country planning.

95. (1) Subject to Clause (3), in exercising the executive authority of the Federation any officer authorised by the Federal Government may inspect any department or work of a State Government with a view to making a report thereon to the Federal Government.

* See Article 80(2).

† See Article 79(1)

(2) A report made under this Article shall, if the Federal Government so direct, be communicated to the State Government and laid before the Legislative Assembly of the State.

(3) This Article does not authorise the inspection of any department or work dealing only with or carried on only with respect to matters within the exclusive legislative authority of a State.

CHAPTER VII

NATIONAL COUNCIL FOR LOCAL GOVERNMENT

95A. (1) There shall be a National Council for Local Government consisting of a Minister as Chairman, one representative from each of the States, who shall be appointed by the Ruler or Governor, and such number of representatives of the Federal Government as that Government may appoint but, subject to Clause (5) of Article 95E, the number of representatives of the Federal Government shall not exceed ten.

(2) The Chairman may vote on any question before the National Council for Local Government and shall have a casting vote.

(3) The National Council for Local Government shall be summoned to meet by the Chairman as often as he considers necessary but there shall be at least one meeting in every year.

(4) If the Chairman or a representative of a State or of the Federal Government is unable to attend a meeting, the authority by whom he was appointed may appoint another person to take his place at that meeting.

(5) It shall be the duty of the National Council for Local Government to formulate from time to time in consultation with the Federal Government and the State Governments a national policy for the promotion, development and control of local government throughout the Federation and for the administration of any laws relating thereto; and the Federal and State Governments shall follow the policy so formulated.

(6) It shall also be the duty of the Federal Government and the Government of any State to consult the National Council for Local Government in respect of any proposed legislation dealing with local government and it shall be the duty of the National Council for Local Government to advise those Governments on any such matter.

(7) The Federal Government or the Government of any State may consult the National Council for Local Government in respect of any

other matter relating to local government, and it shall be the duty of the National Council for Local Government to advise that Government on any such matter.

95B. (1) In the case of the Borneo States and Singapore—

- (a) the appropriate supplement to List II set out in the Ninth Schedule shall be deemed to form part of the State List, and the matters enumerated therein shall be deemed not to be included in the Federal List or Concurrent List; and
- (b) the appropriate supplement to List III set out in the Ninth Schedule shall, subject to the State List, be deemed to form part of the Concurrent List, and the matters enumerated therein shall be deemed not to be included in the Federal List (but not so as to affect the construction of the State List, where it refers to the Federal List).

(2) Where by virtue of Clause (1) an item is included in the Concurrent List for a State for a period only, the expiration or termination of that period shall not affect the continued operation of any State law passed by virtue of the item, save as provided by federal or State law.

(3) The Legislature of a Borneo State may also make laws for imposing sales taxes, and any sales tax imposed by State law in a Borneo State shall be deemed to be among the matters enumerated in the State List and not in the Federal List; but—

- (a) there shall not in the charging or administration of a State sales tax be any discrimination between goods of the same description according to the place in which they originate; and
- (b) the charge for any federal sales tax shall be met out of sums collected from a person liable for that tax before the charge for a State sales tax.

95C. (1) Subject to the provisions of any Act of Parliament passed after Malaysia Day, the Yang di-Pertuan Agong may by order make as respects a Borneo State any such provision as may be made by Act of Parliament—

- (a) for authorising the Legislature of the State to make laws as mentioned in Article 76A; or

- (b) for extending the executive authority of the State, and the powers or duties of any authority of the State, as mentioned in Clause (4) of Article 80.

(2) An order made by virtue of paragraph (a) of Clause (1) shall not authorise the Legislature of a State to amend or repeal an Act of Parliament passed after Malaysia Day, unless the Act so provides.

(3) Clause (3) of Article 76A and Clause (6) of Article 80 shall apply in relation to an order under paragraph (a) and paragraph (b) respectively of Clause (1) of this Article as they apply in relation to an Act of Parliament.

(4) Where an order under this Article is revoked by a later order, the later order may include provision for continuing in force (generally or to such extent or for such purposes as the order may specify) any State law passed by virtue of the earlier order or any subsidiary legislation made or thing done under any such State law, and from the coming into operation of the later order any State law thereby continued in force shall have effect as federal law:

Provided that no provision shall be continued in force by virtue of this Clause if or in so far as it could not have been made by Act of Parliament.

(5) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

95D. In relation to a Borneo State and in relation to Singapore, Clause (4) of Article 76 shall not apply, nor shall paragraph (b) of Clause (1) of that Article enable Parliament to make laws with respect to any of the matters mentioned in Clause (4) of that Article.

95E. (1) In relation to a Borneo State and in relation to Singapore, Articles 91, 92, 94 and 95A shall have effect subject to the following Clauses.

(2) Subject to Clause (5), under Article 91 and under Article 95A the State government shall not be required to follow the policy formulated by the National Land Council or by the National Council for Local Government, as the case may be, but the representative of the State shall not be entitled to vote on questions before the Council.

(3) Under Article 92 no area in the State shall be proclaimed a development area for the purposes of any development plan without the concurrence of the Governor.

(4) Under clause (1) of Article 94 (under which in respect of matters in the State List the Federation may conduct research, give advice and

technical assistance, etc.) the agricultural and forestry officers of a Borneo State shall consider, but shall not be required to accept, professional advice given to the government of the State

(5) Clause (2) shall cease to apply to a State—

- (a) as regards Article 91, if Parliament so provides with the concurrence of the Governor; and
- (b) as regards Article 95A, if Parliament so provides with the concurrence of the Legislative Assembly;

but for each representative of a Borneo State or of Singapore becoming entitled, by virtue of this Clause, to vote on questions before the National Land Council or National Council of Local Government, one shall be added to the maximum number or representatives of the Federal Government on that Council.

PART VII

FINANCIAL PROVISIONS

96. No tax or rate shall be levied by or for the purposes of the Federation except by or under the authority of federal law.

97. (1) All revenues and moneys howsoever raised or received by the Federation shall, subject to the provisions of this Constitution and of federal law, be paid into and form one fund, to be known as the Federal Consolidated Fund.

(2) All revenues and moneys howsoever raised or received by a State shall, subject to Clause (3) and to any law, be paid into and form one fund, to be known as the Consolidated Fund of that State.

(3) If in accordance with State law any Zakat, Fitrah, Bait-ul-Mal or similar Muslim revenue is raised, it shall be paid into a separate fund and shall not be paid out except under the authority of State law.*

(4) Unless the context otherwise requires, any reference in this Constitution to the Consolidated Fund shall be construed as a reference to the Federal Consolidated Fund.

98. (1) There shall be charged on the Consolidated Fund, in addition to any grant, remuneration or other moneys so charged by any other Article or federal law,—

* This fund must be audited by the Auditor-General: See sections 5(2) and 9(6) of the Audit Ordinance, 1957.

- (a) all pensions, compensation for loss of office and gratuities for which the Federation is liable;
- (b) all debt charges for which the Federation is liable; and
- (c) any moneys required to satisfy any judgment, decision or award against the Federation by any court or tribunal.

(2) In making payment of any grant to a State in accordance with the provisions of this Part, the Federation may deduct the amount of any debt charges payable to the Federation by the State and charged on the Consolidated Fund of that State.

(3) For the purposes of this Article debt charges include interest, sinking fund charges, the repayment or amortisation of debt, and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

*99. (1) The Yang di-Pertuan Agong shall, in respect of every financial year, cause to be laid before the House of Representatives a statement of the estimated receipts and expenditure of the Federation for that year, and, unless Parliament in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year:

Provided that there may be separate statements of estimated receipts and estimated expenditure, and in that case it shall not be necessary for the statement of receipts to be so laid before the commencement of the year to which it relates.

(2) The estimates of expenditure shall show separately—

- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to Clause (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The sums to be shown under paragraph (b) of Clause (2) do not include—

- (a) sums representing the proceeds of any loan raised by the Federation for specific purposes and appropriated for those purposes by the Act authorising the raising of the loan;

* See section 15 of the Financial Procedure Ordinance, 1957.

- (b) sums representing any money or interest on money received by the Federation subject to a trust and to be applied in accordance with the terms of the trust;
- (c) sums representing any money held by the Federation which has been received or appropriated for the purpose of any trust fund established by or in accordance with federal law.

(4) The said statement shall also show, so far as is practicable, the assets and liabilities of the Federation at the end of the last completed financial year, the manner in which those assets are invested or held, and the general heads in respect of which those liabilities are outstanding.

100. The heads of expenditure to be met from the Consolidated Fund but not charged thereon, other than expenditure to be met by such sums as are mentioned in Clause (3) of Article 99, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

101. If in respect of any financial year it is found—

- (a) that the amount appropriated by the Supply Act for any purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Act,

a supplementary estimate showing the sums required or spent shall be laid before the House of Representatives and the heads of any such expenditure shall be included in a Supply Bill.

102. Parliament shall have power in respect of any financial year—

- (a) before the passing of the Supply Bill, to authorise by law expenditure for part of the year;
- (b) to authorise by law expenditure for the whole or part of the year otherwise than in accordance with Articles 99 to 101, if owing to the magnitude or indefinite character of any service

or to circumstances of unusual urgency it appears to Parliament to be desirable to do so.*

****103.** (1) Parliament may by law provide for the creation of a Contingencies Fund and for authorising the Minister charged with responsibility for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Contingencies Fund to meet that need.

(2) Where any advance is made in accordance with Clause (1), a supplementary estimate shall be presented and a Supply Bill introduced as soon as possible for the purpose of replacing the amount so advanced.

104. (1) Subject to Clause (2), no moneys shall be withdrawn from the Consolidated Fund unless they are—

- (a) charged on the Consolidated Fund; or
- (b) authorised to be issued by a Supply Act; or
- (c) authorised to be issued under Article 102.

(2) Clause (1) does not apply to any such sums as are mentioned in Clause (3) of Article 99.

(3) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.

†105. (1) There shall be an Auditor-General, who shall be appointed by the Yang di-Pertuan Agong on the advice of the Prime Minister and after consultation with the Conference of Rulers.

(2) A person who has held the office of Auditor-General shall be eligible for re-appointment but shall not be eligible for any other appointment in the service of the Federation or for any appointment in the service of a State.

(3) The Auditor-General may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

* For an example of such a law, see the Statutory Funds Appropriation (1958) Ordinance, 1957 (No. 73 of 1957). This Ordinance appropriates money to certain funds specified therein; these funds do not represent expenditure in the common sense of the word, but finance running accounts of various kinds whose requirements are not capable of exact estimation and cannot in consequence be included in the Supply Bill.

** A Contingencies Fund is created by section 11 of the Financial Procedure Ordinance, 1957; appropriation to the Fund was made under the Statutory Funds Appropriation (1958) Ordinance, 1957, for the year 1958. See, also, Article 109(5).

† See the Audit Ordinance, 1957 (No. 60 of 1957).

(4) Parliament shall by law provide for the remuneration of the Auditor-General, and the remuneration so provided shall be charged on the Consolidated Fund.

(5) The remuneration and other terms of office (including pension rights) of the Auditor-General shall not be altered to his disadvantage after his appointment.

(6) Subject to the provisions of this Article, the terms and conditions of service of the Auditor-General shall be determined by federal law and, subject to the provisions of federal law, by the Yang di-Pertuan Agong.

***106.** (1) The accounts of the Federation and of the States shall be audited and reported on by the Auditor-General.

(2) The Auditor-General shall perform such other duties and exercise such powers in relation to the accounts of the Federation and of the States and to the accounts of other public authorities and bodies administering public funds, as may be provided by federal law.

107. (1) The Auditor-General shall submit his reports to the Yang di-Pertuan Agong, who shall cause them to be laid before the House of Representatives.

(2) A copy of any such report relating to the accounts of a State, or to the accounts of any public authority exercising powers conferred by State law, shall be submitted to the Ruler or Governor of that State, who shall cause it to be laid before the Legislative Assembly.

108. (1) There shall be a National Finance Council consisting of the Prime Minister, such other Minister as the Prime Minister may designate, and one representative from each of the States, appointed by the Ruler or Governor.

(2) The National Finance Council shall be summoned to meet by the Prime Minister as often as he considers necessary and whenever the representatives of three or more States demand a meeting, but there shall be at least one meeting in every twelve months.

(3) At any meeting of the National Finance Council the Prime Minister may be represented by another Minister of the Federation, and the Prime Minister or, if he is not present, the Minister representing him, shall preside.

(4) It shall be the duty of the Federal Government to consult the National Finance Council in respect of—

* See the Audit Ordinance, 1957 (No. 60 of 1957).

- (a) the making of grants by the Federation to the States;
- (b) the assignment to the States of the whole or any portion of the proceeds of any federal tax or fee;
- (c) the annual loan requirements of the Federation and the States and the exercise by the Federation and the States of their borrowing powers;
- (d) the making of loans to any of the States;
- (e) the making of development plans in accordance with Article 92;
- (f) the matters referred to in Item 7 (f) and (g) of the Federal List;
- (g) any proposal to introduce a Bill for such a law as is mentioned in Article 109(2) or Article 110(3) or (3A);
- (h) any other matter in respect of which this Constitution or federal law makes provision for consultation with the National Finance Council.

(5) The Federal Government may consult the National Finance Council in respect of any other matter, whether or not it involves questions of finance, and the Government of a State may consult the said Council in respect of any matter which affects the financial position of that State.

109. (1) The Federation shall make to each State in respect of each financial year—

- (a) a grant, to be known as a capitation grant, which shall be calculated in accordance with the provisions of Part I of the Tenth Schedule;
- (b) a grant for the maintenance of State roads, to be known as the State road grant, which shall be calculated in accordance with the provisions of Part II of that Schedule.

* (2) Parliament may from time to time by law vary the rates of the capitation grant; but if the effect of any such law is to reduce the grant, provision shall be made in that law for securing that the amount of grant received by any State in respect of any financial year is not less than ninety per cent of the amount received by that State in the preceding financial year.

* See Article 018(4)(g).

(3) Parliament may by law make grants for specific purposes to any of the States on such terms and conditions as may be provided by any such law.

(4) The amounts required for making the grants mentioned in the preceding provisions of this Article shall be charged on the Consolidated Fund.

(5) If, in accordance with Article 103, a Contingencies Fund is created, the power to make advances from that Fund for meeting an urgent and unforeseen need for expenditure shall include power to make such advances to a State for meeting such a need.

†(6) The Federation shall pay into a fund, to be known as the State Reserve Fund,—

(a) (*Repealed by 25 of 1963*).

(b) in respect of every financial year such sum as the Federal Government may, after consultation with the National Finance Council, determine to be necessary;

and the Federation may from time to time, after consultation with the National Finance Council, make grants out of the State Reserve Fund to any State for the purposes of development or generally to supplement its revenues.

110. (1) Subject to Clause (2), each of the States shall receive all proceeds from the taxes, fees and other sources of revenue specified in Part III of the Tenth Schedule so far as collected, levied or raised within the State.

(2) Parliament may from time to time by law substitute for any source of revenue specified in sections 1, 3, 4, 5, 6, 7, 8, 12 or 14 of Part III of the Tenth Schedule or for any source of revenue so substituted, another source of revenue of substantially equal value.

* (3) Each State shall receive, on such terms and conditions as may be provided by or under federal law, ten per cent, or such greater amount as may be so provided of the export duty on tin produced in the State.

(3A) Parliament may by law provide that each State shall receive, on such terms and conditions as may be prescribed by or under federal law, such proportion as may be so prescribed of the export duty on minerals (other than tin) produced in the State.

† See section 12 of the Financial Procedure Ordinance, 1957.

* See Article 108(4)(g).

In this Article minerals means mineral ores, metal and mineral oils.

(3B) Without prejudice to the power to impose conditions conferred by Clause (3) or (3A), Parliament may by law provide for prohibiting or restricting, in, or except in, such cases as may be provided by or under the law, the levying of royalties on or similar charges in respect of minerals (whether under a lease or other instrument or under any State enactment, and whether the instrument was made or the enactment passed before or after the coming into operation of this Clause).

(4) Without prejudice to the provisions of Clauses (1) to (3A), Parliament may by law—

- (a) assign to the States the whole or any portion of the proceeds of any tax or fee raised or levied by the Federation; and
- (b) assign to the States the responsibility of collecting for State purposes any tax or fee authorised by federal law.

(5) The amounts receivable by the States under Clause (1), (2) or (4) shall not be paid into the Consolidated Fund; and the amounts receivable by the States under Clauses (3) and (3A) shall be charged on the Consolidated Fund.

111. (1) The Federation shall not borrow except under the authority of federal law.

(2) A State shall not borrow except under the authority of State law, and State law shall not authorise a State to borrow except from the Federation or, for a period not exceeding twelve months, from a bank approved for that purpose by the Federal Government.*

112. (1) Subject to Clause (2), no State shall, without the approval of the Federation, make any addition to its establishment or the establishment of any of its departments, or alter the rates of established salaries and emoluments, if the effect of doing so would be to increase the liability of the Federation in respect of pensions, gratuities or other like allowances.

(2) This Article does not apply to—

- (a) non-pensionable appointments the maximum salaries of which do not exceed four hundred dollars per month; or

* This would appear to extend to any guarantee involving financial liability: See section 28 of the Financial Procedure Ordinance, 1957.

- (b) pensionable appointments the maximum salaries of which do not exceed one hundred dollars per month.

112A. The Auditor-General shall submit his reports relating to the accounts of a Borneo State or Singapore, or to the accounts of any public authority exercising powers vested in it by the State law in any of those States, to the Yang di-Pertuan Agong (who shall cause them to be laid before the House of Representatives) and to the Governor of the State; and accordingly Clause (2) of Article 107 shall not apply to those reports.

(2) The Governor shall cause any such report submitted to him to be laid before the Legislative Assembly.

(3) The powers and duties of the Auditor-General in relation to the accounts mentioned in Clause (1) for any period ending before the year 1969 shall, in a Borneo State, be exercised and discharged on his behalf by the senior officer of his department for the time being stationed in the State in question:

Provided that during the absence or incapacity of that officer, or a vacancy in his post, those powers and duties shall be exercised and discharged by the Auditor-General or such officer of his department as he may designate.

112B. Clause (2) of Article 111 shall not restrict the power of a Borneo State or of Singapore to borrow under the authority of State law within the State, if the borrowing has the approval of the Central Bank for the time being of the Federation, nor the power of Singapore to borrow under the authority of State law otherwise than within the State, if the borrowing has the approval of the Federal Government.

112C. (1) Subject to the provisions of Article 112D and to any limitation expressed in the relevant section of the Tenth Schedule—

- (a) the Federation shall make to the Borneo States in respect of each financial year the grants specified in Part IV of that Schedule; and
- (b) each of those States shall receive all proceeds from the taxes, fees and dues specified in Part V of that Schedule, so far as collected, levied or raised within the State, or such part of those proceeds as is so specified.

(2) The amounts required for making the grants specified in the said Part IV, and the amounts receivable by a Borneo State under section 3 or 4 of the said Part V, shall be charged on the Consolidated Fund; and the

amounts otherwise receivable by a Borneo State under the said Part V shall not be paid into the Consolidated Fund.

(3) In Article 110, Clauses (3A) and (4) shall not apply to a Borneo State.

(4) Subject to Clause (5) of Article 112D, in relation to a Borneo State Clause (3B) of Article 119—

- (a) shall apply in relation to all minerals, including mineral oils; but
- (b) shall not authorise Parliament to prohibit the levying of royalties on any mineral by the State or to restrict the royalties that may be so levied in any case so that the State is not entitled to receive a royalty amounting to ten per cent *ad valorem* (calculated as for export duty).

112D. (1) The grants specified in section 1 and sub-section (1) of section 2 of Part IV of the Tenth Schedule, and any substituted or additional grant made by virtue of this Clause, shall at the intervals mentioned in Clause (4) be reviewed by the governments of the Federation and the States or State concerned, and if they agree on the alteration or abolition of any of those grants, or the making of another grant instead of or as well as those grants or any of them, the said Part IV and Clause (2) of Article 112C shall be modified by order of the Yang di-Pertuan Agong as may be necessary to give effect to the agreement:

Provided that on the first review the grant specified in sub-section (2) of section 1 of the said Part IV shall not be brought into question except for the purpose of fixing the amounts for the ensuing five years.

(2) Any review under this Article shall take into account the financial position of the Federal Government, as well as the needs of the States or State concerned, but (subject to that) shall endeavour to ensure that the State revenue is adequate to meet the cost of State services as they exist at the time of the review, with such provision for their expansion as appears reasonable.

(3) The period for which provision is to be made on a review shall be a period of five years or (except in the case of the first review) such longer period as may be agreed between the Federation and the States or State concerned; but any order under Clause (1) giving effect to the results of a review shall continue in force after the end of that period, except in so far as it is superseded by a further order under that Clause.

(4) A review under this Article shall not take place earlier than is reasonably necessary to secure that effect can be given to the results of the review from the end of the year 1968 or, in the case of a second or subsequent review, from the end of the period provided for by the preceding review; but, subject to that, reviews shall be held as regards both Borneo States for periods beginning with the year 1969 and with the year 1974, and thereafter as regards either of them at such time (during or after the period provided for on the preceding review) as the Government of the Federation or of the State may require.

(5) If on the occasion of any review under this Article the Government of the Federation give notice to the States or State concerned of their intention to vary any of the assignments of revenue under Part V of the Tenth Schedule (including any substituted or additional assignment made by virtue of this Clause), or to vary Clause (4) of Article 112C: the review shall take the variation into account, and provision shall be made by order of the Yang di-Pertuan Agong so as to give effect to the variation from the beginning of the period provided for on the review:

Provided that this Clause shall not apply to the assignments under sections 4, 7 and 8, and shall not apply to that under section 5 or 6 until the second review.

(6) If on any review the Federal Government and the government of a State are unable to reach agreement on any matter, it shall be referred to an independent assessor, and his recommendations thereon shall be binding on the governments concerned and shall be given effect as if they were the agreement of those governments.

(7) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of matters arising under this Article.

(8) Any order of the Yang di-Pertuan Agong under this Article shall be laid before each House of Parliament.

CHAPTER II

SINGAPORE

112E. (1) The Federal Government and the government of Singapore may from time to time enter into agreements providing for all or any of the following matters:

- (a) the manner in which the revenue derived by the Federation from Singapore or any part of that revenue is to be collected

- and accounted for, and the division of it between the Federation and the State;
- (b) the exercise by the State government or other authority of the State in relation to any such revenue of powers conferred by the laws relating thereto, or the concurrence of that government or any such authority in the exercise of any of those powers;
 - (c) the inclusion of Singapore in a common market with the rest of the Federation, the establishment of a Tariff Advisory Board and the laying down of conditions for the levying of import and export duties in relation to goods imported into or exported from Singapore;
 - (d) excluding or modifying in relation to the State all or any of the provisions of Articles 109 and 110 and the Tenth Schedule;
 - (e) the making of payments (by way of loan or otherwise) by the Federation to the State or by the State to the Federation;
 - (f) determining the revenue which is to be treated for the purposes of any such agreement as derived from Singapore, reviewing the operation of any such agreement and referring to the decision of an independent assessor matters arising on such a review and not settled by agreement, and other matters arising out of or incidental to any such agreement.

(2) The Yang di-Pertuan Agong shall by order make such provision as may be necessary to give effect to any such agreement as is mentioned in Clause (1), including provision modifying in relation to Singapore any law relating to any federal revenue; and any such order shall be laid before each House of Parliament.

(3) An order under Clause (2) may provide that the executive authority of the State shall extend to the administration of any specified provisions of the law relating to any federal revenue, and may for that purpose confer powers and impose duties on any authority of the State.

(4) In relation to Singapore Part III of the Tenth Schedule shall have effect as if the source of revenue specified in section 7 included the property tax levied for local purposes by the State.

(5) The decision of an independent assessor on any matter referred to him on the review of an agreement under this Article shall be binding on the governments concerned and shall be treated for purposes of this Article as the agreement of those governments.

(6) Clause (4) of Article 108 shall not apply to require the Federal Government to consult the National Finance Council in respect of any agreement under this Article.

(7) An agreement made before Malaysia Day shall have effect for the purposes of this Article.

(8) This Article shall cease to have effect as regards the making of any further agreement thereunder—

- (a) if at any time there is no agreement in force under this Article; and
- (b) in such other circumstances as may be provided by any agreement thereunder:

Provided that it shall not under paragraph (a) so cease to have effect pending the completion of a review of the operation of such an agreement (including any reference to an independent assessor).

PART VIII

ELECTIONS

113. (1) There shall be an Election Commission, to be constituted in accordance with Article 114, which, subject to the provisions of federal law, shall conduct elections to the House of Representatives and the Legislative Assemblies of the States and prepare and revise electoral rolls for such elections.

(2) The Election Commission shall, at intervals of not more than ten nor, subject to Clause (3), less than eight years, review the division of the Federation and the States into constituencies and recommend such changes therein as they may think necessary in order to comply with the provisions contained in the Thirteenth Schedule; and the reviews of constituencies for the purpose of elections to the Legislative Assemblies shall be undertaken at the same time as the reviews of constituencies for the purpose of elections to the House of Representatives.

(3) If the Election Commission are of opinion that in consequence of a law made under Article 2 it is necessary to undertake the reviews mentioned in Clause (2), they shall do so, whether or not eight years have elapsed since the last review under that Clause.

(4) Federal or State law may authorise the Election Commission to conduct elections other than those referred to in Clause (1).

(5) So far as may be necessary for the purposes of its functions under this Article the Election Commission may make rules, but any such rules shall have effect subject to the provisions of federal law.*

(6) There shall be separate reviews under Clause (2) for the States of Malaya, for each of the Borneo States and for the State of Singapore, and for the purposes of this Part the expression "unit of review" shall mean, for federal constituencies, the area under review and, for State constituencies, the State.

(7) Subject to Clause (3), the period for the first reviews under Clause (2) for any unit of review shall be calculated from the first delimitation of constituencies for that unit under this Constitution or under the Malaysia Act.

114. (1) The Election Commission shall be appointed by the Yang di-Pertuan Agong after consultation with the Conference of Rulers, and shall consist of a chairman and the three other members.

(2) In appointing members of the Election Commission the Yang di-Pertuan Agong shall have regard to the importance of securing an Election Commission which enjoys public confidence.

(3) A member of the Election Commission shall cease to hold office on attaining the age of sixty-five years or on becoming disqualified under Clause (4) and may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong, but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

(4) Notwithstanding anything in Clause (3), the Yang di-Pertuan Agong may by order remove from office any member of the Election Commission if such member—

- (a) is an undischarged bankrupt; or
- (b) engages in any paid office or employment outside the duties of his office; or
- (c) is a member of either House of Parliament or of the Legislative Assembly of a State.

(5) Parliament shall by law provide for the remuneration of members of the Election Commission, and the remuneration so provided shall be charged on the Consolidated Fund.**

* See the Constitution (Election Commission) Rules, 1960 (Legal Notification 110 of 1960) which set out the principles applied in determining the residence of an elector for the purpose of preparing and revising the electoral rolls.

** See Election Commission Ordinance, 1957 (No. 76 of 1957).

(5A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of members of the Election Commission other than their remuneration.

(6) The remuneration and other terms of office of a member of the Election Commission shall not be altered to his disadvantage after his appointment.

115. (1) The Election Commission may employ such number of persons, on such terms and subject to such conditions, as the Commission may with the approval of the Yang di-Pertuan Agong determine.

(2) All public authorities shall on the request of the Commission give the Commission such assistance in the discharge of its duties as may be practicable; and in exercising its functions of making recommendations for the delimitation of constituencies for the elections mentioned in Article 113(1) the Commission shall seek the advice of two officers of the Federal Government with special knowledge of the topography of, and the distribution of the population in, the unit of review for federal elections, and those officers shall be selected for that purpose by the Yang di-Pertuan Agong.

†116. (1) For the election of members to the House of Representatives a unit of review shall be divided into constituencies in accordance with the provisions contained in the Thirteenth Schedule.

(2) The total number of constituencies shall be equal to the number of members, so that one member shall be elected for each constituency, and of that total in the States of Malaya a number determined in accordance with the provisions contained in the Thirteenth Schedule shall be allocated to each State.

(3) (4) (5)	}	<i>(Repealed by 14 of 1962).</i>
-------------------	---	----------------------------------

117. For the election of members to the Legislative Assembly of a State the State shall be divided into as many constituencies as there are elected members, so that one member shall be elected for each

† See Article 171.

constituency; and the division shall be made in accordance with the provisions contained in the Thirteenth Schedule.

118. No election to the House of Representatives or to the Legislative Assembly of a State shall be called in question except by an election petition presented to the High Court having jurisdiction where the election was held.

119. (1) Every citizen who—

- (a) has attained the age of twenty-one years on the qualifying date; and
- (b) is resident in a constituency on such qualifying date or, if not so resident, is an absent voter,

is entitled to vote in that constituency in any election to the House of Representatives or the Legislative Assembly unless he is disqualified under Clause (3) or under any law relating to offences committed in connection with elections; but no person shall in the same election vote in more than one constituency.

(2) If a person is in a constituency by reason only of being a patient in an establishment maintained wholly or mainly for the reception and treatment of persons suffering from mental illness or mental defectiveness or of being detained in custody he shall for the purposes of Clause (1) be deemed not to be resident in that constituency.

(3) A person is disqualified for being an elector in any election to the House of Representatives or the Legislative Assembly if—

- (a) on the qualifying date he is detained as a person of unsound mind or is serving a sentence of imprisonment; or
- (b) having before the qualifying date been convicted in any part of the Commonwealth of an offence and sentenced to death or imprisonment for a term exceeding twelve months, he remains liable on the qualifying date to suffer any punishment for that offence.

(4) In this Article "qualifying date" means the date by reference to which the electoral rolls are prepared or revised, and "absent voter" means in relation to any constituency any citizen who is registered as an absent voter in respect of that constituency under the provisions of any law relating to elections.

120. Where in accordance with Article 45(4) provision is made by Parliament for the election of Senators by the direct vote of electors—

- (a) the whole of a State shall form a single constituency and each elector shall have as many votes at any election to the Senate as there are seats to be filled in that election;
- (b) the electoral rolls for elections to the House of Representatives shall also be the electoral rolls for elections to the Senate; and
- (c) Articles 118 and 119 shall apply in relation to elections to the Senate as they apply in relation to elections to the House of Representatives.

PART IX

THE JUDICIARY

121. (1) Subject to Clause (2) the judicial power of the Federation shall be vested in three High Courts of co-ordinate jurisdiction and status, namely—

- (a) one in the States of Malaya, which shall be known as the High Court in Malaya and shall have its principal registry in Kuala Lumpur; and
- (b) one in the Borneo States, which shall be known as the High Court in Borneo and shall have its principal registry at such place in the Borneo States as the Yang di-Pertuan Agong may determine; and
- (c) one in the State of Singapore, which shall be known as the High Court in Singapore;

and in such inferior courts as may be provided by federal law.

(2) The following jurisdiction shall be vested in a court which shall be known as the Federal Court and shall have its principal registry in Kuala Lumpur, that is to say,—

- (a) exclusive jurisdiction to determine appeals from decisions of a High Court or a judge thereof (except decisions of a High Court given by a registrar or other officer of the court and appealable under federal law to a judge of the Court); and
- (b) such original or consultative jurisdiction as is specified in Articles 128 and 130.

(3) Subject to any limitations imposed by or under federal law, any order, decree, judgment or process of the courts referred to in Clause (1) or of any judge thereof shall (so far as its nature permits) have full force and effect according to its tenor throughout the Federation, and may be executed or enforced in any part of the Federation accordingly; and federal law may provide for courts in one part of the Federation or their officers to act in aid of courts in another part.

(4) In determining where the principal registry of the High Court in Borneo is to be, the Yang di-Pertuan Agong shall act on the advice of Prime Minister, who shall consult the Chief Ministers of the Borneo States and the Chief Justice of the High Court.

122. (1) The Federal Court shall consist of a president of the Court (to be styled "the Lord President of the Federal Court"), of the Chief Justices of the High Courts and, until Parliament otherwise provides, of two other judges.

(2) A judge of a High Court other than the Chief Justice may sit as a judge of the Federal Court where the Lord President considers that the interests of justice so require, and the judge shall be nominated for the purpose (as occasion requires) by the Lord President.

122A. (1) Each of the High Courts shall consist of a Chief Justice and not less than four other judges; but the number of other judges shall not, until Parliament otherwise determines, exceed—

- (a) in the High Court in Malaya, twelve; and
- (b) in the High Court in Borneo, eight; and
- (c) in the High Court in Singapore, eight.

(2) Any person qualified for appointment as a judge of a High Court may sit as a judge of that court, if designated for the purpose (as occasion requires) in accordance with Article 122B.

(3) For the despatch of business of the High Court in Borneo in an area in which a judge of the court is not for the time being available to attend to business of the court, the Yang di-Pertuan Agong acting on the advice of the Lord President of the Federal Court, or for an area in either State the Governor of this State acting on the advice of the Chief Justice of the court, may by order appoint to be judicial commissioner in that area for such period or for such purposes as may be specified in the order an advocate or person professionally qualified to be admitted an advocate of the court.

(4) Subject to any limitations or conditions imposed by the order appointing him, a judicial commissioner shall have power, in the area for which he is appointed, to perform such functions of a judge of the High Court in Borneo as appear to him to require to be performed without delay; and anything done by a judicial commissioner when acting in accordance with his appointment shall have the same validity and effect as if done by a judge of that court, and in respect thereof he shall have the same powers and enjoy the same immunities as if he had been a judge of that court.

122B. (1) The Lord President of the Federal Court, the Chief Justices of the High Courts and (subject to Article 122C) the other judges of the Federal Court and of the High Courts shall be appointed by the Yang di-Pertuan Agong, acting on the advice of the Prime Minister, after consulting the Conference of Rulers.

(2) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President of the Federal Court, the Prime Minister shall consult the Lord President.

(3) Before tendering his advice as to the appointment under Clause (1) of the Chief Justice of a High Court, the Prime Minister shall consult the Chief Justice of each of the High Courts and, if the appointment is to the High Court in Borneo or in Singapore, the Chief Minister of each of the Borneo States or of Singapore, as the case may be.

(4) Before tendering his advice as to the appointment under Clause (1) of a judge other than the Lord President or a Chief Justice, the Prime Minister shall consult, if the appointment is to the Federal Court, the Chief Justices of all the High Courts and, if the appointment is to one of the High Courts, the Chief Justice of that court.

(5) This Article shall apply to the designation of a person to sit as judge of a High Court under Article 122A (2) as it applies to the appointment of a judge of that court other than the Chief Justice.

122C. Article 122B shall not apply to the transfer to a High Court, otherwise than as Chief Justice, of a judge of another High Court other than the Chief Justice; and such a transfer may be made by the Yang di-Pertuan Agong, on the recommendation of the Lord President of the Federal Court, after consulting the Chief Justices of the two High Courts.

123. A person is qualified for appointment under Article 122B as a judge of the Federal Court or as a judge of any of the High Courts if—

- (a) he is a citizen; and
- (b) for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.

124. (1) The Lord President of the Federal Court shall before exercising the functions of his office take and subscribe the oath of office and allegiance set out in the Sixth Schedule, and shall do so in the presence of the Yang di-Pertuan Agong.

(2) A judge of the Federal Court or a High Court, other than the Lord President of the Federal Court, shall before exercising the functions of a judge take and subscribe that oath in relation to his judicial duties in whatever office, and, having done so, shall not be required to take that oath again on appointment or transfer to another judicial office, not being that of Lord President.

(3) A person taking the oath on becoming Chief Justice of a High Court shall do so in the presence of the senior judge available of that High Court, unless he takes it in accordance with Clause (4) as a judge of the Federal Court.

(4) Subject to Clause (3), a person taking the oath on becoming a judge of the Federal Court shall do so in the presence of the Lord President or, in his absence, the next senior judge available of the Federal Court.

(5) A person taking the oath on becoming a judge of a High Court (but not Chief Justice) shall do so in the presence of the Chief Justice of that court or, in his absence, the next senior judge available of that Court.

125. (1) Subject to the provisions of Clauses (2) to (5), a judge of the Federal Court shall hold office until he attains the age of sixty-five years or such later time, not being later than six months after he attains that age, as the Yang di-Pertuan Agong may approve.

(2) A judge of the Federal Court may at any time resign his office by writing under his hand addressed to the Yang di-Pertuan Agong but shall not be removed from office except in accordance with the following provisions of this Article.

(3) If the Prime Minister, or the Lord President after consulting the Prime Minister, represents to the Yang di-Pertuan Agong that a judge of the Federal Court ought to be removed on the ground of misbehaviour or of inability, from infirmity of body or mind or any other cause, properly

to discharge the functions of his office, the Yang di-Pertuan Agong shall appoint a tribunal in accordance with Clause (4) and refer the representation to it; and may on the recommendation of the tribunal remove the judge from office.

(4) The said tribunal shall consist of not less than five persons who hold or have held office as judge of the Federal Court or a High Court, or have before Malaysia Day held office as judge of the Supreme Court or, if it appears to the Yang di-Pertuan Agong expedient to make such appointment, persons who hold or have held equivalent office in any other part of the Commonwealth, and shall be presided over by the member first in the following order, namely, the Lord President of the Federal Court, the Chief Justices according to their precedence among themselves, and other members according to the order of their appointment to an office qualifying them for membership (the older coming before the Younger of two members with appointments of the same date).

(5) Pending any reference and report under Clause (3) the Yang di-Pertuan Agong may on the recommendation of the Prime Minister and, in the case of any other judge after consulting the Lord President, suspend a judge of the Federal Court from the exercise of his functions.

(6) Parliament shall by law provide for the remuneration of the judges of the Federal Court, and the remuneration so provided shall be charged on the Consolidated Fund.*

(6A) Subject to the provisions of this Article, Parliament may by law provide for the terms of office of the judges of the Federal Court other than their remuneration.

(7) The remuneration and other terms of office (including pension rights) of a judge of the Federal Court shall not be altered to his disadvantage after his appointment.

(8) Notwithstanding Clause (1), the validity of anything done by a judge of the Federal Court shall not be questioned on the ground that he had attained the age at which he was required to retire.

(9) This Article shall apply to a judge of a High Court as it applies to a judge of the Federal Court, except that the Yang di-Pertuan Agong before suspending under Clause (5) a judge of a High Court other than the Chief Justice shall consult the Chief Justice of that Court instead of the Lord President of the Federal Court.

* See Judges Remuneration Act, 1963 (No. 36 of 1963).

126. The Federal Court or a High Court shall have power to punish any contempt of itself.

127. The conduct of a judge of the Federal Court or a High Court shall not be discussed in either House of Parliament except on a substantive motion of which notice has been given by not less than one quarter of the total number of members of that House, and shall not be discussed in the Legislative Assembly of any State.

128. (1) The Federal Court shall, to the exclusion of any other court, have jurisdiction to determine—

- (a) any question whether a law made by Parliament or by the Legislature of a State is invalid on the ground that it makes provision with respect to a matter with respect to which Parliament or, as the case may be, the Legislature of the State has no power to make laws; and
- (b) disputes on any other question between States or between the Federation and any State.

(2) Without prejudice to any appellate jurisdiction of the Federal Court, where in any proceedings before another court a question arises as to the effect of any provision of this Constitution, the Federal Court shall have jurisdiction (subject to any rules of court regulating the exercise of that jurisdiction) to determine the question and remit the case to the other court to be disposed of in accordance with the determination.

(3) The jurisdiction of the Federal Court to determine appeals from a High Court or a judge thereof shall be such as may be provided by federal law.

129. *(Repealed by 26 of 1963).*

130. The Yang di-Pertuan Agong may refer to the Federal Court for its opinion any question as to the effect of any provision of this Constitution which has arisen or appears to him likely to arise, and the Federal Court shall pronounce in open court its opinion on any question so referred to it.

131. (1) The Yang di-Pertuan Agong may make arrangements with Her Majesty for the reference to the Judicial Committee of Her Majesty's Privy Council of appeals from the Federal Court; and, subject to the provisions of this Article, an appeal shall lie from that Court to the Yang di-Pertuan Agong in any case in which such an appeal is allowed by federal law, and in respect of which provision for reference to the said

Committee is made by or under the enactments regulating the proceedings of the said Committee.*

(2) (*Repealed by 25 of 1963*).

(3) Any appeal under this Article shall be subject to such conditions as to leave or otherwise as may be prescribed by federal law or by or under the enactments regulating the proceedings of the Judicial Committee of Her Majesty's Privy Council.

(4) On receiving from Her Majesty's Government in the United Kingdom the report or recommendation of the said Committee in respect of an appeal under this Article, the Yang di-Pertuan Agong shall make such order as may be necessary to give effect thereto.

131A. (1) Any provision made by federal law for the functions of the Lord President of the Federal Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of the Federal Court may extend to his functions under this Constitution.

(2) Any provision made by federal law for the functions of the Chief Justice of a High Court to be performed, in the event of a vacancy in the office or of his inability to act, by another judge of that court may extend to his functions under this Constitution other than functions as judge of the Federal Court.

PART X

PUBLIC SERVICES

132. (1) For the purposes of this Constitution, the public services are—

- (a) the armed forces;
- (b) the judicial and legal service;
- (c) the general public service of the Federation;
- (d) the police force;
- (e) the railway service;
- (f) the joint public services mentioned in Article 133; and
- (g) the public service of each State.

* The arrangements referred to in this Article have already been made, and are set out in an Agreement between Her Majesty the Queen and His Majesty the Yang di-Pertuan Agong, concluded on March 4, 1958, the text of which appears in the *Federal Government Gazette* of April 10, 1958 (*Notification No. 2154*). See also the Appeals from the Supreme Court Ordinance, 1958 (*No. 16 of 1958*).

(2) Except as otherwise expressly provided by this Constitution, the qualifications for appointment and conditions of service of persons in the public services other than those mentioned in paragraph (g) of Clause (1) may be regulated by federal law and, subject to the provisions of any such law, by the Yang di-Pertuan Agong; and the qualifications for appointment and conditions of service of persons in the public service of any State may be regulated by State law and, subject to the provisions of any such law, by the Ruler or Governor of that State.

(2A) Except as expressly provided by this Constitution, every person who is a member of any of the services mentioned in paragraphs (a), (b), (c), (d), (e) and (f) of Clause (1) holds office during the pleasure of the Yang di-Pertuan Agong, and, except as expressly provided by the Constitution of the State, every person who is a member of the public service of a State holds office during the pleasure of the Ruler or Governor.

(3) The public service shall not be taken to comprise—

- (a) the office of any member of the administration in the Federation or a State; or
- (b) the office of President, Speaker, Deputy President, Deputy Speaker or member of either House of Parliament or of the Legislative Assembly of a State; or
- (c) the office of judge of the Federal Court or a High Court; or
- (d) the office of member of any Commission or Council established by this Constitution or any corresponding Commission or Council established by the Constitution of a State; or
- (e) such diplomatic posts as the Yang di-Pertuan Agong may by order prescribe, being posts which but for the order would be posts in the general public service of the Federation.

(4) References in this Part, except in Articles 136 and 147, to persons in the public service or to members of any of the public services shall not apply to—

- (a) the Clerk to either House of Parliament or any member of the staff of Parliament; or
- (b) the Attorney General or, if provisions for the manner of his appointment and removal from office is specifically included

in the Constitution of the State, or if he is appointed otherwise than from among the members of the judicial and legal service or of the public service of the State, the legal adviser of any State; or

- (c) a member of the personal staff of the Yang di-Pertuan Agong or of a Ruler or Governor.

133. (1) Joint services, common to the Federation and one or more of the States or, at the request of the States concerned, to two or more States, may be established by federal law.

(2) Where a member of any of the public services is employed—

- (a) partly for federal purposes and partly for State purposes, or
 (b) for the purposes of two or more States,

the proportion, if any, of his remuneration payable by the Federation and the State or States concerned or, as the case may be, by each of the States concerned, shall, subject to federal law, be determined by agreement or, in default of agreement, by the Commission whose jurisdiction extends to him.*

134. (1) The Federation may, at the request of a State, second any member of any of the services mentioned in paragraphs (a), (b), (c), (d) or (f) of Clause (1) of Article 132 to the service of that State; and a State may at the request of the Federation or of another State second any member of its own public service to the service of the Federation or, as the case may be, of that other State.

(2) A person seconded under this Article shall remain a member of the service to which he belongs, but his remuneration shall be paid by the State to whose service he is seconded or, if he is seconded to the service of the Federation, by the Federation.

****135.** (1) No member of any of the services mentioned in paragraphs (b) to (g) of Clause (1) of Article 132 shall be dismissed or reduced in rank by an authority subordinate to that which, at the time of the dismissal or reduction, has power to appoint a member of that service of equal rank.

* See also Article 179.

** Reversion from a probationary appointment to a former substantive appointment is not a reduction in rank for the purposes of this Article—See *Munusamy v. Public Services Commission* (1960) 26 MLJ 220.

(2) No member of such a service as aforesaid shall be dismissed or reduced in rank without being given a reasonable opportunity of being heard.

(3) No member of any of the services mentioned in paragraphs (e), (f) or (g) of Clause (1) of Article 132 shall, without the concurrence of the Judicial and Legal Service Commission, be dismissed or reduced in rank or suffer any other disciplinary measure for anything done or omitted by him in the exercise of a judicial function conferred on him by law.

136. All persons of whatever race in the same grade in the service of the Federation shall, subject to the terms and conditions of their employment, be treated impartially.

137. (1) There shall be an Armed Forces Council, which shall be responsible under the general authority of the Yang di-Pertuan Agong for the command, discipline and administration of, and all other matters relating to, the armed forces, other than matters relating to their operational use.

(2) Clause (1) has effect subject to the provisions of any federal law, and any such law may provide for the vesting in the Armed Forces Council of any functions with respect to the armed forces.

(3) The Armed Forces Council shall consist of the following members, that is to say—

- (a) the Minister for the time being charged with responsibility for defence, who shall be Chairman;
- (b) one member representing Their Highnesses, who shall be appointed by the Conference of Rulers;
- (c) the Chief of the Armed Forces Staff who shall be appointed by the Yang di-Pertuan Agong;
- (d) a civilian member, being the person performing the duties of the office of Secretary for Defence, who shall act as Secretary to the Council;
- (e) two senior staff officers of the Federation Armed Forces, appointed by the Yang di-Pertuan Agong;
- (f) a senior officer of the Federation Navy, appointed by the Yang di-Pertuan Agong;
- (g) a senior officer of the Federation Air Force, appointed by the Yang di-Pertuan Agong;
- (h) two, if any, additional members, whether military or civilian, appointed by the Yang di-Pertuan Agong.

(4) The Armed Forces Council may act notwithstanding a vacancy in its membership and may, subject to this Constitution and to federal law, provide for all or any of the following matters:

- (a) the organisation of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
- (b) the duties and responsibilities of the several members of the Council, including the delegation to any member of the Council of any of its powers or duties;
- (c) the consultation by the Council with persons other than its members;
- (d) the procedure to be followed by the Council in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman; and
- (e) any other matters for which the Council considers it necessary or expedient to provide for the better performance of its functions.

138. (1) There shall be Judicial and Legal Service Commission, whose jurisdiction shall extend to all members of the judicial and legal service.

(2) Subject to Article 146A, the Judicial and Legal Services Commission shall consist of—

- (a) the Chairman of the Public Services Commission, who shall be Chairman;
- (b) the Attorney-General; and
- (c) one or more other members who shall be appointed by the Yang di-Pertuan Agong, after consultation with the Lord President of the Federal Court, from among persons who are or have been a judge of the Federal Court or a High Court or shall before Malaysia Day have been a judge of the Supreme Court.

(3) The person who is secretary to the Public Services Commission shall be secretary also to the Judicial and Legal Service Commission.

139. (1) There shall be a Public Services Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are

members of the services mentioned in paragraphs (c) and (f) of Clause (1) of Article 132, other than the Auditor-General, to members of the public services of the State of Malacca and the State of Penang, and, to the extent provided by Clause (2), to members of the public service of any other State.

(2) The Legislature of any State other than Malacca and Penang may by law extend the jurisdiction of the Public Services Commission to all or any persons in the public service of that State, but no such law shall take effect earlier than twelve months from the date of its passing; and if at any time there is not, in any such State in which no such law is in force, established and exercising its functions a State Public Service Commission, the jurisdiction of the Public Services Commission shall, if federal law so provides, extend to all members of the public service of that State.

(3) *(Repealed by 25 of 1963).*

(4) Subject to Article 146B the Public Services Commission shall consist of the following members appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than four nor more than ten other members.

(5) Either the chairman or the deputy chairman shall be, and both may be, appointed from among persons who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.

(6) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

140. (1) There shall be a Police Force Commission whose jurisdiction shall extend to all persons who are members of the police force and which, subject to the provisions of any existing law, shall be responsible for the appointment, confirmation, emplacement on the permanent or pensionable establishment, promotion, transfer and exercise of disciplinary control over members of the police force.

(2) Federal law may provide for the exercise of other functions by the Police Force Commission.

(3) The Police Force Commission shall consist of the following members, that is to say,—

- (a) the Minister for the time being charged with responsibility for the police, who shall be Chairman;
- (b) the officer of police in general command of the police force;
- (c) the person performing the duties of the office of Secretary to the Ministry under the Minister for the time being charged with responsibility for the police;
- (d) a member of the Public Services Commission appointed by the Yang di-Pertuan Agong;
- (e) not less than two nor more than four other members, appointed by the Yang di-Pertuan Agong.

(4) The Yang di-Pertuan Agong may designate as special posts the posts of Commissioner of Police, Deputy Commissioner of Police and any other posts in the police force which in his opinion are of similar or superior status; and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Yang di-Pertuan Agong on the recommendation of the Police Force Commission.

(5) Before acting in accordance with Clause (4) on the recommendation of the Police Force Commission, the Yang di-Pertuan Agong shall consider the advice of the Prime Minister, and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(6) The Police Force Commission may provide for all or any of the following matters—

- (a) the organisation of its work and the manner in which its functions are to be performed, and the keeping of records and minutes;
- (b) the duties and responsibilities of the several members of the Commission, including the delegation to any member of the Commission or the police force or board of officers of such force of its powers or duties;
- (c) the consultation by the Commission with persons other than its members;
- (d) the procedure to be followed by the Commission in conducting its business (including the fixing of a quorum), the appointment, at its option, of a vice-chairman from among its members, and the functions of the vice-chairman;

- (e) any other matters for which the Commission considers it necessary or expedient to provide for the better performance of its functions.

(7) In this Article "transfer" does not include transfer without change of rank within the police force.

141. (1) Subject to Clause (4), there shall be a Railway Service Commission, whose jurisdiction shall, subject to Article 144, extend to all persons who are members of the railway service.

(2) The Railway Service Commission shall consist of the following members appointed by the Yang di-Pertuan Agong in his discretion but after considering the advice of the Prime Minister and after consultation with the Conference of Rulers, that is to say, a chairman, a deputy chairman and not less than two nor more than six other members; and either the chairman or the deputy chairman shall be, and both may be, appointed from among persons who are, or have at any time within the period of five years immediately preceding the date of their first appointment been, members of any of the public services.

(3) One of the members of the Railway Service Commission shall be appointed from among the members of the Public Services Commission and two of the other members shall, if suitable persons having experience in railway service or railway administration are available, be appointed from among such persons.

(4) A member of any of the public services appointed to be chairman or deputy chairman shall not be eligible for any further appointment in the service of the Federation other than as a member of a Commission to which this Part applies.

(5) If the railway service ceases to be a public service of the Federation Parliament may by law abolish the Railway Service Commission.

142. (1) Subject to paragraph (a) of Clause (3) of Article 140, a member of either House of Parliament or of the Legislative Assembly of a State shall not be appointed to be a member of a Commission to which this Part applies.

(2) Subject to Clause (3), a person shall not be appointed to be a member of any of the Commissions to which this Part applies if he is, and shall not remain such a member if he becomes,—

- (a) a member of any of the public services;
- (b) an officer or employee of any local authority or of a body corporate or authority established by law for public purposes;

- (c) a member of a trade union or of a body or association affiliated to a trade union.

(3) Clause (2) does not apply to *ex officio* members;* and a member of any of the public services may be appointed to be and remain chairman or deputy chairman and, if he is on leave prior to retirement, he may be appointed to be another member, of any of the said Commissions.

(4) Where, during any period, a member of any of the said Commissions has been granted leave of absence by the Yang di-Pertuan Agong or is unable, owing to his absence from the Federation, illness or any other cause, to discharge his functions as a member, then—

- (a) if he is an appointed member, the Yang di-Pertuan Agong may appoint to exercise his functions during that period any person who would be qualified to be appointed in his place, and the appointment of such a person shall be made in the same manner as that of the member whose functions he is to exercise;
- (b) if he is an *ex officio* member, any person authorised under federal law to perform the functions of his office may during that period perform also his functions as a member of the Commission.

(5) A Commission to which this Part applies may act notwithstanding a vacancy in its membership, and no proceedings of such a Commission shall be invalidated by reason only that some person not entitled thereto has taken part in them.

(6) Before exercising his functions as a member of any of the said Commissions or under Clause (4) any person other than an *ex officio* member shall take and subscribe before a judge of the Federal Court or of a High Court the oath of office and allegiance set out in the Sixth Schedule.

143. (1) A member of a Commission to which this Part applies, other than an *ex officio* member—

- (a) shall be appointed for a term of five years or, if the Yang di-Pertuan Agong, acting in his discretion but after considering

* See Article 148(2).

- the advice of the Prime Minister, in a particular case so determines, for such shorter term as he may so determine;
- (b) may, unless disqualified, be re-appointed from time to time; and
 - (c) may at any time resign his office but shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

(2) Parliament shall by law provide for the remuneration of any member of the said Commission other than a member for whose remuneration as holder of any other office provision is made by federal law; and the remuneration so provided shall be charged on the Consolidated Fund.*

(3) The remuneration and other terms of office of a member of a Commission to which this Part applies shall not be altered to his disadvantage after his appointment.

†144. (1) Subject to the provisions of any existing law and to the provisions of this Constitution, it shall be the duty of a Commission to which this Part applies to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the service or services to which its jurisdiction extends.

(2) Federal law may provide for the exercise of other functions by any such Commission.

(3) The Yang di-Pertuan Agong may designate as special posts any post held by the head or deputy head of a department or by an officer who in his opinion is of similar status other than posts in the judicial and legal service and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Yang di-Pertuan Agong on the recommendation of the Commission whose jurisdiction extends to the service in which the post is held.

(4) The Ruler or Governor of a State may designate as special posts any posts in the public service of his State held by the head or deputy head of a department or by an officer who in his opinion is of similar

* See Service Commissions Ordinance, 1957 (No. 74 of 1957).

† On the functions of the Police Service Commission under this Clause, see *B. Surinder Singh Kanda v. Government of the Federation of Malaya* (Privy Council Appeal No. 9 of 1961). (1962) 2 W.L.R. 1153.

status; and the appointment to any post so designated shall not be made in accordance with Clause (1) but shall be made by the Ruler or Governor on the recommendation of the Public Services Commission (or, if there is in the State a State Public Service Commission, on the recommendation of that Commission).

(5) Before acting, in accordance with Clause (3) or (4), on the recommendation of the Commission therein mentioned—

- (a) the Yang di-Pertuan Agong shall consider the advice of the Prime Minister; and
- (b) the Ruler or Governor shall consider the advice of the Chief Minister of his State,

and may once refer the recommendation back to the Commission in order that it may be reconsidered.

(5A) Federal law and, subject to the provisions of any such law, regulations made by the Yang di-Pertuan Agong may, notwithstanding the provisions of Clause (1) of Article 135, provide for the exercise by any officer in a service to which the jurisdiction of a Commission to which this Part applies extends, or by any board of such officers, of any of the functions of the Commission under Clause (1):

Provided that—

- (a) no such law or regulation may provide for the exercise by any such officer or board of officers of any powers of first appointment to the permanent or pensionable establishment, or to any power of promotion (other than promotion to an acting appointment); and
- (b) any person aggrieved by the exercise by any such officer or board of officers of any power of disciplinary control may appeal to the Commission within such time and in such manner as may be prescribed by any such law or regulations, and the Commission may make such order thereon as it may consider just.

(6) A Commission to which this Part applies may delegate to any officer in a service to which its jurisdiction extends, or to any board of such officers appointed by it, any of its functions under Clause (1) in respect of any grade of service, and that officer or board shall exercise those functions under the direction and the control of the Commission.

(6A) In respect of members of the general public service of the Federation who are employed in posts ancillary to the armed forces or any of them or to the police force, or in respect of any grade of members of that service who are so employed, functions of the Public Services Commission may, under Clause (5A) or (6), be made exercisable by an officer or board of officers of the armed forces or police force, as the case may be, as if he or they were members of the general public service of the Federation.

(7) In this Article "transfer" does not include transfer without change of rank within a department of government.

(8) A Commission to which this Part applies may, subject to the provisions of this Constitution and of federal law, make rules regulating its procedure and specifying the number of its members which are to constitute a quorum.

145. (1) The Yang di-Pertuan Agong shall, on the advice of the Prime Minister, appoint a person who is qualified to be a judge of the Federal Court to be the Attorney General for the Federation.

(2) It shall be the duty of the Attorney General to advise the Yang di-Pertuan Agong or the Cabinet or any Minister upon such legal matters, and to perform such other duties of a legal character, as may from time to time be referred or assigned to him by the Yang di-Pertuan Agong or the Cabinet, and to discharge the functions conferred on him by or under this Constitution or any other written law.

(3) The Attorney General shall have power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for an offence, other than proceedings before a Muslim court, a native court or a court-martial.

(4) In the performance of his duties the Attorney General shall have the right of audience in, and shall take precedence over any other person appearing before, any court or tribunal in the Federation.

(5) Subject to Clause (6), the Attorney General shall hold office during the pleasure of the Yang di-Pertuan Agong and may at any time resign his office and, unless he is a member of the Cabinet, shall receive such remuneration as the Yang di-Pertuan Agong may determine.

(6) The person holding the office of Attorney General immediately prior to the coming into operation of this Article shall continue to hold the office on terms and conditions not less favourable than those applicable to him immediately before such coming into operation and

shall not be removed from office except on the like grounds and in the like manner as a judge of the Federal Court.

146. (1) Each of the Commissions to which this Part applies shall make an annual report on its activities to the Yang di-Pertuan Agong and copies of those reports shall be laid before both Houses of Parliament.

(2) The Public Services Commission shall send a copy of every report made under this Article to the Ruler or Governor of each State to members of whose public service their jurisdiction extends, and the Ruler or Governor shall lay it before the Legislative Assembly.

146A. (1) In respect of members of the judicial and legal service who are employed in the Borneo States or in Singapore the functions to be discharged by the Judicial and Legal Service Commission shall, so long as this Article has effect, be discharged by a branch of that Commission established for the Borneo States or for Singapore, as the case may be.

(2) The branch of the Judicial and Legal Service Commission for the Borneo States shall consist of—

- (a) the Chief Justice of the High Court in Borneo, who shall be Chairman;
- (b) the legal advisers of the Borneo States;
- (c) the chairman of the State Public Service Commission (if any) in each of the Borneo States; and
- (d) two persons designated by the Federal Government from among the members of the main body of the Judicial and Legal Service Commission or Public Services Commission.

(3) The branch of the Judicial and Legal Service Commission for Singapore shall consist of—

- (a) the Chief Justice of the High Court in Singapore, who shall be Chairman;
- (b) the legal adviser of the State;
- (c) the chairman of the State Public Service Commission in Singapore;
- (d) a judge of the High Court in Singapore designated by the Chief Justice;
- (e) not more than two members of the Public Services Commission, being the member or members of the main body serving under Clause (3) of Article 146B on the branch for

Singapore of that Commission or, if that Clause is not in operation, a member or members designated by the Federal Government.

(4) At any time when the branch of the Judicial and Legal Service Commission for the Borneo States includes among its members more than one chairman of a State Public Service Commission the following provisions shall apply:

- (a) not more than one of those chairmen shall attend any meeting of the branch, and the one entitled to attend and be summoned to any meeting shall be determined by or in accordance with the rules of the branch and (subject to the rules) any general or special directions of the chairman of the branch; and
- (b) the branch shall not make appointments to posts in the State of either of those chairmen at a meeting which he does not attend and has not been summoned to, unless he consents to their doing so.

(5) Notwithstanding Clause (2) of Article 134, so long as there is for the Borneo States or for Singapore a branch of the Judicial and Legal Service Commission under this Article, the jurisdiction of the Commission shall extend to members of the public service of a Borneo State or of Singapore, as the case may be, who are seconded to the judicial and legal service, and for purposes of the Judicial and Legal Service Commission they shall be deemed to be members of that service.

(6) This Article shall have effect until the end of August, 1968, and thereafter—

- (a) in relation to the Borneo States, until the Federal Government determines to the contrary; and
- (b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

146B. (1) In respect of members of the general public service of the Federation who are employed in a federal department in a Borneo State or in Singapore the functions to be discharged by the Public Services Commission shall, so long as this Clause has effect, be discharged by a branch of that Commission established for the State.

(2) Subject to Clause (3), the branch of the Public Services Commission established for a State under Clause (1) shall consist of such

members of the main body of the Commission as may be designated by the Federal Government and such special members as the Yang di-Pertuan Agong may appoint; and the Yang di-Pertuan Agong in making any appointment under this Clause shall act in his discretion, after considering the advice of the Prime Minister and consulting the Governor of the State.

(3) So long as this Clause has effect, in any State in which there is for the time being a State Public Service Commission, the members of that Commission shall *ex officio* be members of the branch for the State of the Public Services Commission, and that branch shall consist of those members and not more than two members of the main body of the Public Services Commission designated by the Federal Government.

(4) Such member of a branch of the Public Services Commission established under Clause (1) as may be designated by the Chairman of the Commission shall be chairman of the branch.

(5) The number of members of the Public Services Commission required by Clause (4) of Article 139 shall be the number of the members of the main body, exclusive of those who are members of a branch but not of the main body.

(6) Where a post in a federal department in a Borneo State entails duties in or in respect of the other of those States, the branch of the Public Services Commission whose jurisdiction is to extend to that post shall be the branch for the State in which the head of the department is normally stationed or, in any case of doubt or difficulty, whichever branch the Federal Government may determine.

(7) Notwithstanding Clause (2) of Article 134, so long as there is for a Borneo State or Singapore a branch of the Public Services Commission under this Article and the branch is constituted in accordance with Clause (3), the jurisdiction of the Public Services Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of the State who are seconded to the general public service of the Federation, other than members in or below such grade as the Yang di-Pertuan Agong, with the concurrence of the Governor, may direct; and for purposes of the Public Services Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the general public service of the Federation.

(8) Clauses (1) and (3) shall have effect until the end of August, 1968, and thereafter either shall continue to have effect—

- (a) in relation to a Borneo State, until the Federal Government determines to the contrary; and
- (b) in relation to Singapore, until Parliament otherwise provides by an Act passed with the concurrence of the Governor.

146C. (1) If provision is made by federal law for establishing a joint service common to the Federation and to a Borneo State or Singapore, or to two or more of those States with or without the Federation, and for conferring jurisdiction in respect of that service on the Judicial and Legal Service Commission or the Public Services Commission, federal law may provide for functions of the Commission in relation to that service to be exercised by any branch for the time being established under Article 146A or 146B for the State or any of the States in question.

(2) In Article 142, paragraph (b) of Clause (4) and, in Article 143, Clause (2) shall have effect in relation to members of a branch of the Judicial and Legal Service Commission or Public Services Commission established under Article 146A or 146B as if the references to federal law included references to State law.

(3) Clause (8) of Article 144 shall apply to a branch of the Judicial and Legal Service Commission of Public Services Commission established under Article 146A or 146B as if it were a separate Commission to which this Part applies; but nothing in those Articles shall be taken to require such a branch to make a separate annual report under Article 146.

146D. (1) Notwithstanding Clause (2) of Article 134, the jurisdiction of the Police Force Commission shall extend (except as regards the exercise of disciplinary control over them) to members of the public service of a Borneo State who are seconded to the police force; and for purposes of the Police Force Commission they shall be deemed (except as regards the exercise of disciplinary control over them) to be members of the police force.

(2) If in a Borneo State there is not a board exercising disciplinary control over the said persons and having the following membership, that is to say,—

- (a) the Chairman of a State Public Service Commission in the State; and
- (b) the legal adviser of the State; and
- (c) the senior officer of police in the State; and
- (d) a representative of the officer of police in general command of the police force;

then Clause (1) shall apply as if it made no exception for the exercise of disciplinary control.

(3) So much of Clause (2) of Article 139 as provides for extending the jurisdiction of the Public Services Commission in certain circumstances to members of the public service of a State shall not apply to members of the public service of a Borneo State who are seconded to the police force.

147. (1) The law applicable to any pension, gratuity or other like allowance (in this Article referred to as an "award") granted to a member of any of the public services, or to his widow, children, dependent or personal representatives, shall be that in force on the relevant day or any later law not less favourable to the person to whom the award is made.

(2) For the purposes of this Article the relevant day is—

- (a) in relation to an award made before Merdeka Day, the date on which the award was made;
- (b) in relation to an award made after Merdeka Day to or in respect of any person who was a member of any of the public services before Merdeka Day, the thirtieth day of August, nineteen hundred and fifty-seven;
- (c) in relation to an award made to or in respect of any person who first became a member of any of the public services on or after Merdeka Day, the date on which he first became such a member.

(3) For the purposes of this Article, where the law applicable to an award depends on the option of the person to whom it is made, the law for which he opts shall be taken to be more favourable to him than any other law for which he might have opted.

148. (1) References in this Constitution to a Commission to which this Part applies are, unless the context otherwise requires, references to any of the Commissions established under Articles 138 to 141.

(2) In this Part "*ex officio* member" includes a Minister and a judge of the Federal Court and a High Court and "State Public Service Commission" means, in relation to any State, a Commission exercising functions in respect of members of the public service of the State and corresponding in status and jurisdiction to the Public Services Commission.

PART XI

SPECIAL POWERS AGAINST SUBVERSION AND
EMERGENCY POWERS

***149.** (1) If an Act of Parliament recites that action has been taken or threatened by any substantial body of persons, whether inside or outside the Federation—

- (a) to cause, or to cause a substantial number of citizens to fear, organised violence against persons or property; or
- (b) to excite disaffection against the Yang di-Pertuan Agong or any Government in the Federation; or
- (c) to promote feelings of ill-will and hostility between different races or other classes of the population likely to cause violence; or
- (d) to procure the alteration, otherwise than by lawful means, of anything by law established; or
- (e) which is prejudicial to the security of the Federation or any part thereof,

any provision of the law designed to stop or prevent that action is valid notwithstanding that it is inconsistent with any of the provisions of Articles 5, 9 or 10, or would apart from this Article be outside the legislative power of Parliament; and Article 79 shall not apply to a Bill for such an Act or any amendment to such a Bill.

(2) A law containing such a recital as is mentioned in Clause (1) shall, if not sooner repealed, cease to have effect if resolutions are passed by both Houses of Parliament annulling such law, but without prejudice to anything previously done by virtue thereof or to the power of Parliament to make a new law under this Article.

150. (1) If the Yang di-Pertuan Agong is satisfied that a grave emergency exists whereby the security or economic life of the Federation or of any part thereof is threatened, he may issue a Proclamation of Emergency.

(2) If a Proclamation of Emergency is issued when Parliament is not sitting, the Yang di-Pertuan Agong shall summon Parliament as soon as

* The Internal Security Act, 1960 (No. 18 of 1960) in force from August 1, 1960, was enacted pursuant to the powers conferred by this Article.

may be practicable, and may, until both Houses of Parliament are sitting, promulgate ordinances having the force of law, if satisfied that immediate action is required.

(3) A Proclamation of Emergency and any ordinance promulgated under Clause (2) shall be laid before both Houses of Parliament and, if not sooner revoked, shall cease to have effect if resolutions are passed by both Houses annulling such Proclamation or ordinance, but without prejudice to anything previously done by virtue thereof or to the power of the Yang di-Pertuan Agong to issue a new Proclamation under Clause (1) or promulgate any ordinance under Clause (2).

(4) While a Proclamation of Emergency is in force the executive authority of the Federation shall, notwithstanding anything in this Constitution, extend to any matter within the legislative authority of a State and to the giving of directions to the Government of a State or to any officer or authority thereof.

(5) Subject to Clause (6A), while a Proclamation of Emergency is in force, Parliament may, notwithstanding anything in this Constitution, make laws with respect to any matter, if it appears to Parliament that the law is required by reason of the emergency; and Article 79 shall not apply to a Bill for such a law or an amendment to such a Bill, nor shall any provision of this Constitution or of any written law which requires any consent or concurrence to the passing of a law or any consultation with respect thereto, or which restricts the coming into force of a law after it is passed or the presentation of a Bill to the Yang di-Pertuan Agong for his assent.

(6) Subject to Clause (6A), no provision of any ordinance promulgated under this Article, and no provision of any Act of Parliament which is passed while a Proclamation of Emergency is in force and which declares that the law appears to Parliament to be required by reason of the emergency, shall be invalid on the ground of inconsistency with any provision of this Constitution.

(6A) Clause (5) shall not extend the powers of Parliament with respect to any matter of Muslim law or the custom of the Malays, or with respect to any matter of native law or custom in Borneo State; nor shall Clause (6) validate any provision inconsistent with the provisions of this Constitution relating to any such matter or relating to religion, citizenship, or language.

(7) At the expiration of a period of six months beginning with the date on which a Proclamation of Emergency ceases to be in force, any ordinance promulgated in pursuance of the Proclamation and, to the

extent that it could not have been validly made but for this Article, any law made while the Proclamation was in force, shall cease to have effect, except as to things done or omitted to be done before the expiration of that period.

*151. (1) Where any law or ordinance made or promulgated in pursuance of this Part provides for preventive detention—

- (a) the authority on whose order any person is detained under that law or ordinance shall, as soon as may be, inform him of the grounds for his detention and, subject to Clause (3), the allegations of fact on which the order is based, and shall give him the opportunity of making representations against the order as soon as may be; and
- (b) no citizen shall be detained under that law or ordinance for a period exceeding three months unless an advisory board constituted as mentioned in Clause (2) has considered any representations made by him under paragraph (a) and made recommendations thereon to the Yang di-Pertuan Agong.

(2) An advisory board constituted for the purposes of this Article shall consist of a chairman, who shall be appointed by the Yang di-Pertuan Agong and who shall be or have been, or be qualified to be, a judge of the Federal Court or a High Court, or shall before Malaysia Day have been a judge of the Supreme Court, and two other members, who shall be appointed by the Yang di-Pertuan Agong after consultation with the Lord President of the Federal Court.

(3) This Article does not require any authority to disclose facts whose disclosure would in its opinion be against the national interest.

PART XII

GENERAL AND MISCELLANEOUS

152. (1) The national language shall be the Malay language and shall be in such script as Parliament may by law provide:**

* The Constitutional Commission recommended that "preventive detention should be illegal except in so far as it may be allowed by emergency legislation" (*Report*, page 93). In consequence it would appear (in view of the fact that this Part follows the provisions of the Constitution proposed by the Commission) that preventive detention can only be provided for by virtue of a law or ordinance made under this Part.

** See the National Language Act, 1963 (No. 10 of 1963).

Provided that—

- (a) no person shall be prohibited or prevented from using (otherwise than for official purposes), or from teaching or learning, any other language; and
- (b) Nothing in this clause shall prejudice the right of the Federal Government or of any State Government to preserve and sustain the use and study of the language of any other community in the Federation.

(2) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the English language may be used in both Houses of Parliament, in the Legislative Assembly of every State, and for all other official purposes.

(3) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, the authoritative texts—

- (a) of all Bills to be introduced or amendments thereto to be moved in either House of Parliament, and
- (b) of all Acts of Parliament and all subsidiary legislation issued by the Federal Government,

shall be in the English language.

(4) Notwithstanding the provisions of Clause (1), for a period of ten years after Merdeka Day, and thereafter until Parliament otherwise provides, all proceedings in the Federal Court or a High Court shall be in the English language:

Provided that, if the Court and counsel on both sides agree, evidence taken in the language spoken by the witness need not be translated into or recorded in English.

(5) Notwithstanding the provisions of Clause (1), until Parliament otherwise provides, all proceedings in subordinate courts, other than the taking of evidence, shall be in the English language.

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

* See Article 38(5).

(2) Notwithstanding anything in this Constitution, but subject to the provisions of Article 40 and of this Article, the Yang di-Pertuan Agong shall exercise his functions under this Constitution and federal law in such manner as may be necessary to safeguard the special position of the Malays and to ensure the reservation for Malays of such proportion as he may deem reasonable of positions in the public service (other than the public service of a State) and of scholarships, exhibitions and other similar educational or training privileges or special facilities given or accorded by the Federal Government and, when any permit or licence for the operation of any trade or business is required by federal law, then, subject to the provisions of that law and this Article, of such permits and licences.

(3) The Yang di-Pertuan Agong may, in order to ensure in accordance with Clause (2) the reservation to Malays of positions in the public service and to scholarships, exhibitions and other educational or training privileges or special facilities, give such general directions as may be required for that purpose to any Commission to which Part X applies or to any authority charged with responsibility for the grant of such scholarships, exhibitions or other educational or training privileges or special facilities; and the Commission or authority shall duly comply with the directions.

(4) In exercising his functions under this Constitution and federal law in accordance with Clauses (1) to (3) the Yang di-Pertuan Agong shall not deprive any person of any public office held by him or of the continuance of any scholarship, exhibition or other educational or training privileges or special facilities enjoyed by him.

(5) This Article does not derogate from the provisions of Article 136.

(6) Where by existing federal law a permit or licence is required for the operation of any trade or business the Yang di-Pertuan Agong may exercise his functions under that law in such manner, or give such general directions to any authority charged under that law with the grant of such permits or licences, as may be required to ensure the reservation of such proportion of such permits or licences for Malays as the Yang di-Pertuan Agong may deem reasonable; and the authority shall duly comply with the directions.

(7) Nothing in this Article shall operate to deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him or to authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs,

successors or assigns of a person any permit or licence when the renewal or grant might reasonably be expected in the ordinary course of events.

(8) Notwithstanding anything in this Constitution, where by any federal law any permit or licence is required for the operation of any trade or business, that law may provide for the reservation of a proportion of such permits or licences for Malays; but no such law shall for the purpose of ensuring such a reservation—

- (a) deprive or authorise the deprivation of any person of any right, privilege, permit or licence accrued to or enjoyed or held by him; or
- (b) authorise a refusal to renew to any person any such permit or licence or a refusal to grant to the heirs, successors or assigns of any person any permit or licence when the renewal or grant might in accordance with the other provisions of the law reasonably be expected in the ordinary course of events, or prevent any person from transferring together with his business any transferable licence to operate that business; or
- (c) where no permit or licence was previously required for the operation of the trade or business, authorise a refusal to grant a permit or licence to any person for the operation of any trade or business which immediately before the coming into force of the law he had been *bona fide* carrying on, or authorise a refusal subsequently to renew to any such person any permit or licence, or a refusal to grant to the heirs, successors or assigns of any such person any such permit or licence when the renewal or grant might in accordance with the other provisions of that law reasonably be expected in the ordinary course of events.

(9) Nothing in this Article shall empower Parliament to restrict business or trade solely for the purpose of reservations for Malays.

(10) The Constitution of the State or any Ruler may make provision corresponding (with the necessary modifications) to the provisions of this Article.*

* Such provision has been made in all the State Constitutions concerned: see *Johore Gazette* Notification (New Series) 43A of 1957; *Kedah Legal* Notification 27 of 1957; *Kelantan Gazette* Notification 241 of 1957; *Negeri Sembilan Gazette* Notification 453 of 1957; *Pahang Gazette* Notification 270 of 1957; *Perak Gazette* Notification 1413 of 1957; *Perlis Legal* Notification 5 of 1957; *Selangor Gazette* Notification 403 of 1957; and *Trengganu Gazette* Notification 227 of 1957.

154. (1) Until Parliament otherwise determines, the municipality of Kuala Lumpur shall be the federal capital.

(2) Notwithstanding anything in Part VI, Parliament shall have exclusive power to make laws with respect to the boundaries of the federal capital.*

(3) *(Repealed by 10 of 1960).*

155. (1) Where the law in force in any other part of the Commonwealth confers upon citizens of the Federation any right or privilege it shall be lawful, notwithstanding anything in this Constitution, for Parliament to confer a similar right or privilege upon citizens of that part of the Commonwealth who are not citizens of the Federation.

(2) The reference in Clause (1) to citizens of a part of the Commonwealth shall be construed, in relation to the United Kingdom or to any other part of the Commonwealth not being a Commonwealth country or a territory administered by the Government of a Commonwealth country other than the United Kingdom as a reference to citizens of the United Kingdom and Colonies.

(3) This Article applies in relation to the Republic of Ireland as it applies in relation to a Commonwealth country.

156. Where lands, buildings, or hereditaments are occupied for public purposes by or on behalf of the Federation, a State or a public authority, the Federation State or public authority shall not be liable to pay local rates in respect thereof but shall in aid of those rates make such contributions in respect thereof as may be agreed between the Federation, State or public authority, as the case may be, and the authority levying the rates or as may in default of agreement be determined by a tribunal consisting of the chairman of the Lands Tribunal established under Article 87, who shall preside, and two other members of whom each of the parties concerned shall appoint one.

157. Subject to any provision of State law, arrangements may be made between any two States for the performance of any functions by the authorities of the one on behalf of the authorities of the other, and such arrangements may provide for the making of payments in respect of any costs incurred under the arrangements.

158. (1) Nothing in this Constitution shall be taken to prohibit the making or continuance of arrangements whereby—

* See the Federal Capital Act, 1960 (No. 35 of 1960).

- (a) departments, authorities or services are maintained by the Federal Government in common with the Government of Brunei; or
- (b) the Federal Government or any officer or authority thereof acts as agent for the Government of Brunei; or
- (c) any part of the executive authority of the Federation is exercised, with the consent of the Federal Government, by any officer or authority of the Government of Brunei.

(2) *(Repealed by 25 of 1963).*

159. (1) Subject to the following provisions of this Article and to Articles 161E and 161H, the provisions of this Constitution may be amended by federal law.

(2) *(Repealed by 25 of 1963).*

(3) A Bill for making any amendment to the Constitution (other than an amendment excepted from the provisions of this clause) shall not be passed in either House of Parliament unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members of that House.

(4) The following amendments are excepted from the provisions of Clause (3), that is to say,—

- (a) any amendment to Part III of the Second or to the Sixth or Seventh Schedule;
- (b) any amendment incidental to or consequential on the exercise of any power to make law conferred on Parliament by any provision of this Constitution other than Articles 74 and 76;
- (bb) Subject to Article 16E any amendment made for or in connection with the admission of any State to the Federation or its association with the States thereof, or any modification made as to the application of this Constitution to a State previously so admitted or associated;
- (c) any amendment incidental to or consequential on the repeal of a law made under Clause (2) or consequential on an amendment made under paragraph (a).

(5) A law making an amendment to Articles 38, 70, 71(1) or 153 shall not be passed without the consent of the Conference of Rulers.

(6) In this Article "amendment" includes addition and repeal and "State" includes any territory.

159A. The provisions of Part IV of the Malaysia Act (which contains temporary and transitional provisions in connection with the operation of that Act) shall have effect as if embodied in this Constitution, and shall have effect notwithstanding anything in this Constitution as amended by that Act; and the provisions of this Constitution, and in particular Clause (1) of Article 4 and Articles 159, 161E and 161H, shall have effect in relation thereto accordingly.

160. (1) The Interpretation and General Clauses Ordinance, 1948, as in force immediately before Merdeka Day shall, to the extent specified in the Eleventh Schedule, apply for the interpretation of this Constitution as it applies for the interpretation of any written law within the meaning of that Ordinance, but with the substitution of references to the Yang di-Pertuan Agong for references to the High Commissioner.

(2) In this Constitution, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—

“aborigine” means an aborigine of the Malay Peninsula;

“Act of Parliament” means a law made by Parliament;

“Attorney-General” means the Attorney-General of the Federation;

“Borrow” includes the raising of money by the grant of annuities, and “loan” shall be construed accordingly;

“Casual vacancy” means a vacancy arising in the Senate otherwise than by the expiry of the term of office of a member, or a vacancy arising in the House of Representatives or a Legislative Assembly otherwise than by a dissolution of Parliament or of the Assembly;

“Chief Minister” and “Mentri Besar” both mean the president, by whatever style known, of the Executive Council in a State (and in particular “Chief Minister” includes the Prime Minister in Singapore);

“Citizen” means a citizen of the Federation;

“Civil List” means the provision made for the maintenance of the Yang di-Pertuan Agong, his Consort, a Ruler or Governor out of public funds;

“Commonwealth country” means the United Kingdom, Canada, Australia, New Zealand, India, Pakistan, Ceylon, Ghana, Nigeria, Cyprus, Sierra Leone, Tanganyika and any other country declared by Act of Parliament to be a Commonwealth country and “part of the Commonwealth” means any Commonwealth country, any colony, protectorate or protected state, or any other territory administered by the Government of any Commonwealth country.

"Concurrent List" means the Third List set out in the Ninth Schedule;

"Debt" includes any liability in respect of any obligation to repay capital sums by way of annuities and any liability under any guarantee, and "debt charges" shall be construed accordingly;

"Elector" means a person who is entitled to vote in an election to the House of Representatives or the Legislative Assembly of a State;

"Enactment", where the expression occurs in the Eighth Schedule, means a law made by the Legislature of a State;

"Executive Council" means the Cabinet or other body, however called, which in the government of a State corresponds, whether or not the members of it are Ministers, to the Cabinet of Ministers in the government of the Federation (and in particular includes the Supreme Council in Sarawak);

"Existing law" means any law in operation in the Federation or any part thereof immediately before Merdeka Day;

"Federal law" means—

- (a) any existing law relating to a matter with respect to which Parliament has power to make laws, being a law continued in operation under Part XIII, and
- (b) any Act of Parliament;

"Federal List" means the First List set out in the Ninth Schedule;

"Federal purposes" includes the purposes of the Federation in connection with matters enumerated in the Concurrent List and with any other matters with respect to which Parliament has power to make laws otherwise than by virtue of Article 76 of the Constitution.

"Foreign country" does not include any part of the Commonwealth or the Republic of Ireland;

"Governor" means the Head of State, by whatever style known, in a State not having a Ruler (and in particular includes the Yang di-Pertuan Negara in Sabah and the Yang di-Pertuan Negara in Singapore);

"Law" includes written law, the common law in so far as it is in operation in the Federation or any part thereof, and any custom or usage having the force of law in the Federation or any part thereof;

"Legislative Assembly" means the representative assembly, however called, in the Legislature of a State (and in particular includes

the Council Negri in Sarawak), but except in the Eighth Schedule includes also a Legislative Council, however called;

“Legislature”, in relation to a State, means the authority having power under the Constitution of that State to make laws for the State;

“local rates”, in relation to Singapore, includes the property tax levied for local purposes by the State;

“Malay” means a person who professes the Muslim religion, 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;

“member of the administration” means, in relation to the Federation, a person holding office as Minister or Assistant Minister and, in relation to a State, a person holding a corresponding office in the State or holding office as member (other than an official member) of the Executive Council, and includes in Singapore political secretaries as well as parliamentary secretaries;

“Merdeka Day” means the thirty-first day of August, nineteen hundred and fifty-seven;

“Office of profit” means any whole time office in any of the public services, and includes—

- (a) the office of any judge of the Federal Court or of a High Court; and
- (b) the office of Auditor-General; and
- (c) the office of a member of the Election Commission, of a member (other than an *ex officio* member) of a Commission to which Part X applies, or of a member (other than an *ex officio* member) of any corresponding Commission established by the Constitution of a State; and
- (d) any other office not specified in Clause (3) of Article 132 which may be declared by Act of Parliament to be an office of profit;

“Pension rights” includes superannuation rights and provident fund rights;

"Public authority" means the Yang di-Pertuan Agong, the Ruler or Governor of a State, the Federal Government, the Government of a State, a local authority, a statutory authority exercising powers vested in it by federal or State law, any court or tribunal other than the Federal Court and High Courts, or State law, any courts, or any officer or authority appointed by or acting on behalf of any of those persons, courts, tribunals or authorities;

"Remuneration" includes salary or wages, allowances, pension rights, free or subsidised housing, free or subsidised transport, and other privileges capable of being valued in money;

"Ruler",—

- (a) in relation to Negri Sembilan, means the Yang di-Pertuan Besar acting on behalf of himself and the Ruling Chiefs in accordance with the Constitution of that State; and
- (b) in the case of any State, includes, except in Article 181(2) and the Third and Fifth Schedules, any person who in accordance with the Constitution of that State exercises the functions of the Ruler;

"State" means a State of the Federation;

"State law" means—

- (a) any existing law relating to a matter with respect to which the Legislature of a State has power to make law, being a law continued in operation under Part XIII; and
- (b) a law made by the Legislature of a State;

"State List" means the Second List set out in the Ninth Schedule;

"State purposes" includes, in relation to any State, the purposes of the State in connection with matters enumerated in the Concurrent List and with any other matters with respect to which the Legislature of the State has power to make laws;

"Tax" includes an impost or a duty but does not include a rate levied for local purposes or a fee for services rendered;

"The Federation" means the Federation established under the Federation of Malaya Agreement, 1957;

"Written law" includes this Constitution and the Constitution of any State.

(3) Unless the context otherwise requires, any reference in this Constitution to a specified Part, Article or Schedule is a reference to that Part or Article of, or that Schedule to, this Constitution, any reference to a specified chapter, clause, section or paragraph is a reference to that chapter of the Part, that clause of the Article, that section of the Schedule, or that paragraph of the clause or section, in which the reference occurs; and any reference to a group of Articles, sections or divisions of Articles or sections shall be construed as including both the first and the last member of the group referred to.

(4) Where under this Constitution a person is required to take and subscribe an oath he shall be permitted, if he so desires, to comply with that requirement by making and subscribing an affirmation.

(5) References in this Constitution to the Federation and its States and to the territories of the Federation or any of its States, and to any officer holding office under the Federation or any authority or body in or for the Federation shall be construed—

- (a) in relation to any time after the coming into operation of the Federation of Malaya Agreement, 1948 and before Merdeka Day, as references to the Federation established under that Agreement, and the States and Settlements comprising it and to the territories of that Federation or any of the States and Settlements comprising it, and to the corresponding officer holding office thereunder or the corresponding authority or body in or for that Federation;
- (b) in relation to any time before the coming into operation of the said Agreement (so far as the context admits) as references to such of the countries, territories, offices, authorities or bodies for the construction of references to which provision was made by Clause 135(2) of the said Agreement, as may be appropriate.

(6) References in this Constitution to any period shall be construed, so far as the context admits, as including references to a period beginning before Merdeka Day.

161. (1) No Act of Parliament terminating or restricting the use of the English language for any of the purposes mentioned in Clauses (2) to (5) of Article 152 shall come into operation as regards the use of the English language in any case mentioned in Clause (2) of this Article until ten years after Malaysia Day.

(2) Clause (1) applies—

- (a) to the use of the English language in either House of Parliament by a member for or from a Borneo State; and
- (b) to the use of the English language for proceedings in the High Court in Borneo or in a subordinate court in a Borneo State, or for such proceedings in the Federal Court as are mentioned in Clause (4); and
- (c) to the use of the English language in a Borneo State in the Legislative Assembly or for other official purposes (including the official purposes of the Federal Government).

(3) Without prejudice to Clause (1), no such Act of Parliament as is there mentioned shall come into operation as regards the use of the English language for proceedings in the High Court in Borneo or for such proceedings in the Federal Court as are mentioned in Clause (4), until the Act or the relevant provision of it has been approved by enactments of the Legislatures of the Borneo States; and no such Act shall come into operation as regards the use of the English language in a Borneo State in any other case mentioned in paragraph (b) or (c) of Clause (2), until the Act or the relevant provision of it has been approved by an enactment of the Legislature of that State.

(4) The proceedings in the Federal Court referred to in Clauses (2) and (3) are any proceedings on appeal from the High Court in Borneo or a judge thereof, and any proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

(5) Notwithstanding anything in Article 152, in a Borneo State a native language in current use in the State may be used in native courts or for any code of native law and custom, and in the case of Sarawak, until otherwise provided by enactment of the Legislature, may be used by a member addressing the Legislative Assembly or any committee thereof.

161A. (1) Subject to Clause (2), the provisions of Clauses (2) to (5) of Article 153, so far as they relate to the reservation of positions in the public service, shall apply in relation to natives of any of the Borneo States as they apply in relation to Malays.

(2) In a Borneo State Article 153 shall have effect with the substitution of references to natives of the State for the references to Malays, but as regards scholarships, exhibitions and other educational or

training privileges and facilities Clause (2) of that Article shall not require the reservation of a fixed proportion for natives.

(3) Before advice is tendered to the Yang di-Pertuan Agong as to the exercise of his powers under Article 153 in relation to a Borneo State, the Chief Minister of the State in question shall be consulted.

(4) The Constitutions of the Borneo States may make provision corresponding (with the necessary modifications) to Article 153 with the changes made by Clause (2).

(5) Article 89 shall not apply to a Borneo State, and Article 8 shall not invalidate or prohibit any provision of State law in a Borneo State for the reservation of land for natives of the State or for alienation to them, or for giving them preferential treatment as regards the alienation of land by the State.

(6) In this Article "native" means —

- (a) in relation to Sarawak, a person who is a citizen and either belongs to one of the races specified in Clause (7) as indigenous to the State or is of mixed blood deriving exclusively from those races; and
- (b) in relation to Sabah, a person who is a citizen, is the child or grandchild of a person of a race indigenous to Sabah, and was born (whether on or after Malaysia Day or not) either in Sabah or to a father domiciled in Sabah at the time of the birth.

(7) The races to be treated for the purposes of the definition of "native" in Clause (6) as indigenous to Sarawak are the Bukitans, Bisayahs, Dusuns, Sea Dayaks, Land Dayaks, Kadayans, Kalabits, Kayans, Kenyahs (including Sabups and Sipengs), Kajangs (including Sekapans, Kejamans, Lahanans, Punans, Tanjongs and Kanowits), Lugats, Lisums, Malays, Melanos, Muruts, Penans, Sians, Tagals, Tabuns and Ukits.

161B. (1) In so far as any provision made by or under an Act of Parliament, by removing or altering a residence qualification, confers a right practise before a court in the Borneo States or either of them on persons not previously having the right, that provision shall not come into operation until adopted in the States or State in question by an enactment of the Legislature.

(2) This Article shall apply to the right to practise before the Federal Court when sitting in the Borneo States and entertaining proceedings on

appeal from the High Court in Borneo or a judge thereof or proceedings under Clause (2) of Article 128 for the determination of a question which has arisen in proceedings before the High Court in Borneo or a subordinate court in a Borneo State.

161C. (1) No Act of Parliament which provides as respects a Borneo State for special financial aid for the establishment or maintenance of Muslim institutions or the instruction in the Muslim religion of persons professing that religion shall be passed without the consent of the Governor.

(2) Where under any provision of federal law not having effect as respects Sabah, or not having effect as respects Sarawak, any such aid as aforesaid is given by way of grant out of public funds in any year, there shall be paid by the Federation to the Government of Sabah or Sarawak, as the case may be, and applied for social welfare purposes in that State, amounts which bear to the revenue derived by the Federation from that State in the year the same proportion as the grant bears to the revenue derived by the Federation from other States in that year.

(3) For the purposes of Clause (2) the revenue derived by the Federation from any State or States shall be the amount after deduction of any sums assigned to States under Article 110 or the Tenth Schedule; and there shall be disregarded any contributions received by the Federation out of the proceeds of lotteries conducted by the Social and Welfare Services Lotteries Board together with any amounts applied to such aid as aforesaid out of or by reference to those contributions.

161D. Notwithstanding Clause (4) of Article 11, there may be included in the Constitution of a Borneo State provision that an enactment of the State Legislature controlling or restricting the propagation of any religious doctrine or belief among persons professing the Muslim religion shall not be passed unless it is agreed to in the Legislative Assembly on second or third reading or on both by a specified majority, not being a majority greater than two-thirds of the total number of members of the Assembly.

161E. (1) As from the passing of the Malaysia Act no amendment to the Constitution made in connection with the admission to the Federation of a Borneo State shall be expected from Clause (3) of Article 159 by Clause (4)(bb) of that Article; nor shall any modification made as to the application of the Constitution to a Borneo State be so expected unless the modification is such as to equate or assimilate the position of that State under the Constitution to the position of the States of Malaya.

(2) No amendment shall be made to the Constitution without the concurrence of the Governor of the Borneo State or each of the Borneo States concerned, if the amendment is such as to affect the operation of the Constitution as regards any of the following matters:

- (a) the right of persons born before Malaysia Day to citizenship by reason of a connection with the State, and (except to the extent that different provision is made by the Constitution as in force on Malaysia Day) the equal treatment, as regards their own citizenship and that of others, or persons born or resident in the State and of persons born or resident in the States of Malaya;
- (b) the Constitution and jurisdiction of the High Court in Borneo and the appointment, removal and suspension of judges of that court;
- (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, and the executive authority of the State in those matters, and (so far as related thereto) the financial arrangements between the Federation and the State;
- (d) religion in the State, the use in the State or in Parliament of any language and the special treatment of natives of the State;
- (e) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(3) No amendment to the Constitution which affects its operation as regards the quota of members of the House of Representatives allocated to a Borneo State shall be treated for purposes of Clause (1) as equating or assimilating the position of that State to the position of the States of Malaya.

(4) In relation to any rights and powers conferred by federal law on the government of a Borneo State as regards entry into the State and residence in the State and matters connected therewith (whether or not the law is passed before Malaysia Day) Clause (2) shall apply, except in so far as the law provides to the contrary, as if the law had been embodied

in the Constitution and those rights and powers had been included among the matters mentioned in paragraphs (a) to (e) of that Clause.

(5) In this Article "amendment" includes addition and repeal.

CHAPTER III

SINGAPORE

161F. Notwithstanding anything in Article 152, until otherwise provided by enactment of the Legislature of Singapore, the English, Mandarin and Tamil languages may be used in the Legislative Assembly of Singapore, and the English language may be used for the authoritative texts of all Bills to be introduced or amendments thereto to be moved in that Assembly, and of all enactments of that Legislature, and of all subsidiary legislation issued by the government of Singapore.

161G. Nothing in Clause (2) of Article 8 or Clause (1) of Article 12 shall prohibit or invalidate any provision of State law in Singapore for the advancement of Malays; but there shall be no reservation for Malays in accordance with Article 153 of positions in the public service to be filled by recruitment in Singapore, or of permits or licences for the operation of any trade or business in Singapore.

161H. (1) No amendment shall be made to the Constitution without the concurrence of the Governor if the amendment is such as to affect the operation of the Constitution in relation to Singapore as regards any of the following matters—

- (a) citizenship of Singapore, and the restriction to citizens of Singapore of the right to be a member of either House of Parliament for or from Singapore, or to be a member of the Legislative Assembly of Singapore, or to vote at elections in Singapore;
- (b) the Constitution and jurisdiction of the High Court in Singapore and the appointment, removal and suspension of judges of that court;
- (c) the matters with respect to which the Legislature of the State may (or Parliament may not) make laws, the executive authority of the state in those matters, the borrowing powers of the State and the financial arrangements between the Federation and the State;
- (d) the discharge of functions of the Public Services Commission or of the Judicial and Legal Service Commission by a branch

established for the State and the Constitution of any such branch;

- (e) religion in the State, the use in the State or in Parliament of any language and the special position of the Malays in Singapore;
- (f) the allocation to the State, in any Parliament summoned to meet before the end of August, 1970, of a quota of members of the House of Representatives not less, in proportion to the total allocated to the other States which are members of the Federation on Malaysia Day, than the quota allocated to the State on that day.

(2) In this Article "amendment" includes addition and repeal.

PART XIII

TEMPORARY AND TRANSITIONAL PROVISIONS

*162. (1) Subject to the following provisions of this Article and Article 163, the existing laws shall, until repealed by the authority having power to do so under this Constitution, continue in force on and after Merdeka Day, with such modifications as may be made therein under this Article and subject to any amendments made by federal or State law.

(2) Where any State law amends or repeals an existing law made by the Legislature of a State, nothing in Article 75 shall invalidate the amendment or repeal by reason only that the existing law, relating to a matter with regard to which Parliament as well as the Legislature of a State has power to make laws, is federal law as defined by Article 160.

(3) References in any existing law to the Federation established by the Federation of Malaya Agreement, 1948, and its territories, and of any officer holding office under that Federation or to any authority or body constituted in or for that Federation (including any references falling to

* The above Article refers only to *existing laws*, that is to say, laws in operation in the Federation or any part thereof immediately before Merdeka Day [see Article 160(1)]. In consequence it was necessary to make special provision for the bringing into operation of Ordinances and subsidiary legislation enacted or made before, but not brought into force by Merdeka Day: see the Pending Laws (Validation) Ordinance, 1957 (Ordinance No. 58 of 1957). Nothing in that Ordinance applied, however, to any Ordinance or subsidiary legislation which related to any matter with respect to which Parliament has under the Constitution no power to make laws.

be construed as such references by virtue of Clause 135 of the said Agreement) shall be construed, in relation to any time on and after Merdeka Day, as references to the Federation (that is to say, the Federation established under the Federation of Malaya Agreement, 1957) and its territories and to the corresponding officer, authority or body respectively; and the Yang di-Pertuan Agong may by order declare what officer, authority or body is to be taken for the purposes of this clause to correspond to any officer, authority or body referred to in any existing law.

(4) *(Repealed by 25 of 1963).*

(5) Any order made under Clause (4) may be amended or repealed by the authority having power to make laws with respect to the matter to which the order relates.

(6) Any court or tribunal applying the provision of any existing law which has not been modified on or after Merdeka Day under this Article or otherwise may apply it with such modifications as may be necessary to bring it into accord with the provisions of this Constitution.*

(7) In this Article "modification" includes amendment, adaptation and repeal.

163. *(Repealed by 25 of 1963).*

164. *(Repealed by 25 of 1963).*

165. *(Repealed by 25 of 1963).*

166. $\left. \begin{array}{l} (1) \\ (2) \end{array} \right\} \quad \textit{(Repealed by 25 of 1963).}$

(3) Any land vested in the State of Malacca or the State of Penang which immediately before Merdeka Day was occupied or used by the Federation Government or Her Majesty's Government or by any public authority for purposes which in accordance with the provisions of this Constitution become federal purposes shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said public authority, so long as it is required for federal purposes, and—

- (a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government, and

* See also Article 4.

- (b) shall not be used for federal purposes different from the purposes for which it was used immediately before Merdeka Day without the consent of the Government of the State.

(4) }
 (5) } *(Repealed by 25 of 1963).*
 (6) }
 (7) }

(8) Any property which was, immediately before Merdeka Day, liable to escheat to Her Majesty in respect of the government of Malacca or the government of Penang shall on that day be liable to escheat to the State or Malacca or the State of Penang, as the case may be.

167. (1) }
 (2) } *(Repealed by 25 of 1963)*
 (3) }
 (4) }
 (5) }

(6) The Attorney General shall, on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this Article a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(7) The Federation shall make the like annual payments as fell to be made before Merdeka Day under Article II of the Treaty made on the sixth day of May, eighteen hundred and sixty-nine, between Her Majesty of the one part and the King of Siam of the other part relative to the State of Kedah.

168. *(Repealed by 25 of 1963).*

*169. For the purposes of Article 76(1)—

* By an Exchange of Notes of September 12, 1957, the Governments of the Federation of Malaya and the United Kingdom agreed that :

(i) All obligations and responsibilities of the Government of the United Kingdom which arise from any valid international instrument are, from 31st August,

(Cont.)

- (a) any treaty, agreement or convention entered into before Merdeka Day between Her Majesty or her predecessors or the Government of the United Kingdom on behalf of the Federation or any part thereof and another country shall be deemed to be a treaty, agreement or convention between the Federation and that other country;
- (b) any decision taken by an international organisation and accepted before Merdeka Day by the Government of the United Kingdom on behalf of the Federation or any part thereof shall be deemed to be a decision of an international organisation of which the Federation is a member;
- (c) in relation to the Borneo States and to Singapore paragraphs (a) and (b) shall apply with the substitution of references to Malaysia Day for the references to Merdeka Day and of references to the territories comprised in those States or any of them for the references to the Federation or any part thereof.

170. (*Repealed by 25 of 1963*).

171. (*Repealed by 25 of 1963*).

172. (*Repealed by 25 of 1963*).

173. (*Repealed by 25 of 1963*).

174. (*Repealed by 26 of 1963*).

175. The person holding office as Director of Audit immediately before Merdeka Day shall, as from that day, hold office as Auditor-General on terms and conditions not less favourable than those applicable to him immediately before Merdeka Day.

176. (1) Subject to the provisions of this Constitution and any existing law, all persons serving in connection with the affairs of the Federation immediately before Merdeka Day shall continue to have the same powers and to exercise the same functions on Merdeka Day on the same terms and conditions as were applicable to them immediately before that day.

1957, assumed by the Government of the Federation of Malaya in so far as such instruments may be held to have application to or in respect of the Federation of Malaya;

- (ii) The rights and benefits heretofore enjoyed by the Government of the United Kingdom in virtue of the application of any such international instrument to or in respect of the Federation of Malaya are from 31st August, 1957, enjoyed by the Government of the Federation of Malaya.

(*See Gazette Notification 237 of January 22, 1958*).

(2) This Article does not apply to the High Commissioner or the Chief Secretary.

177. A person who, under any provisions of this Part, holds office under the Federation by virtue of having been the holder of a corresponding office immediately before Merdeka Day may, until Parliament otherwise provides, perform his functions without taking the oath required in the case of other holders of that office.

178. Until Parliament otherwise provides, the remuneration payable to the persons holding the offices of Prime Minister and other Ministers shall be the same as was payable, immediately before Merdeka Day, to the Chief Minister and other Ministers of the Federation respectively.

179. Any agreement in force immediately before Merdeka Day relating to the proportion of the remuneration payable by the Federation and any State in respect of any such employment as is mentioned in Article 133(2) shall continue in force until superseded by a new agreement or federal law.

180. (1) The Tenth Schedule to the Federation of Malaya Agreement, 1948, shall continue in force on and after Merdeka Day, but with the modification that any reference therein to the High Commissioner shall be construed as a reference to the Yang di-Pertuan Agong.

(2) The said Schedule shall for the purposes of this Constitution be deemed to be federal law and may, subject to the provisions of Article 147, be amended and repealed accordingly.

(3) In its application to any law made under Clause (2) Article 147 shall have effect as if references therein to an award included compensation.

PART XIV

SAVING FOR RULERS' SOVEREIGNTY, ETC.

181. (1) Subject to the provisions of this Constitution, the sovereignty, prerogatives, powers and jurisdiction of the Rulers and prerogatives, powers and jurisdiction of the Ruling Chiefs of Negeri Sembilan within their respective territories as hitherto had and enjoyed shall remain unaffected.

(2) No proceedings whatsoever shall be brought in any court against the Ruler of a State in his personal capacity.

SCHEDULES

I

OATH OF APPLICANTS FOR REGISTRATION OR NATURALISATION

I of hereby declare on oath that I absolutely and entirely renounce and abjure all loyalty to any country or State outside the Federation, and I do swear that I will be faithful and bear true allegiance to His Majesty the Yang di-Pertuan Agong and be a true, loyal and faithful citizen of the Federation.

II

PART I

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN BEFORE MALAYSIA DAY, OTHER THAN SINGAPORE CITIZENS

1. (1) Subject to the provisions of Part III of this Constitution and anything done thereunder before Malaysia Day, the following persons born before Malaysia Day are citizens by operation of law, that is to say:

- (a) every person who immediately before Merdeka Day, was a citizen of the Federation by virtue of any of the provisions of the Federation of Malaya Agreement, 1948, whether by operation of law or otherwise;
- (b) every person born within the Federation on or after Merdeka Day and before October, 1962;
- (c) every person born within the Federation after September, 1962, of whose parents one at least was at the time of the birth either a citizen or permanently resident in the Federation, or who was not born a citizen of any other country;
- (d) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of his birth and either was born in the Federation or was at the time of the birth in service under the Government of the Federation or of a State;

- (e) every person born outside the Federation on or after Merdeka Day whose father was a citizen at the time of the birth if the birth was, or is, within one year of its occurrence or within such longer period as in any particular case was or is allowed by the Federal Government, registered at a consulate of the Federation or, if it occurred in Singapore, Sarawak, Brunei or North Borneo, registered with the Federal Government.

(2) A person is not a citizen by virtue of paragraph (b) or (c) of sub-section (1) if, at the time of his birth, his father, not being a citizen, possessed such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong.

2. Subject to the provisions of Part III of this Constitution, a person ordinarily resident in a Borneo State or in Brunei on Malaysia Day is a citizen by operation of law if he was immediately before that day a citizen of the United Kingdom and Colonies, and either—

- (a) was born in the territories comprised in the Borneo States; or
- (b) became such a citizen by registration in those territories or by or in consequence of naturalisation there.

PART II

CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN ON OR AFTER MALAYSIA DAY, OTHER THAN SINGAPORE CITIZENS

1. Subject to the provisions of Part III of this Constitution, the following persons born on or after Malaysia Day are citizens by operation of law, that is to say:

- (a) every person born within the Federation outside Singapore of whose parents one at least is at the time of the birth either a citizen, but not a Singapore citizen, or permanently resident in the Federation; and
- (b) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and either was born in the Federation or is at the time of the birth in the service of the Federation or of a State; and
- (c) every person born outside the Federation whose father is at the time of the birth a citizen, but not a Singapore citizen, and

whose birth is, within one year of its occurrence or within such longer period as the Federal Government may in any particular case allow, registered at a consulate of the Federation or, if it occurs in Brunei or in a territory prescribed for this purpose by order of the Yang di-Pertuan Agong, registered with the Federal Government; and

- (d) every person born in Singapore of whose parents one at least is at the time of the birth a citizen, but not a Singapore citizen, and who is not born a citizen otherwise than by virtue of this paragraph; and
- (e) every person born within the Federation outside Singapore who is not born a citizen of any country otherwise than by virtue of this paragraph.

2. (1) A person is not a citizen by virtue of paragraphs (a), (d) or (e) of section 1 if, at the time of his birth, his father, not being a citizen, possesses such immunity from suit and legal process as is accorded to an envoy of a sovereign power accredited to the Yang di-Pertuan Agong, or if his father is then an enemy alien and the birth occurs in a place under the occupation of the enemy.

(2) In section 1 the reference in paragraph (b) to a person having been born in the Federation includes his having been born before Malaysia Day in their territories comprised in the Borneo States or Singapore.

(3) For the purposes of paragraph (e) of section 1 a person is to be treated as having at birth any citizenship which he acquires within one year afterwards by virtue of any provision corresponding to paragraph (c) of that section or otherwise.

PART III

SUPPLEMENTARY PROVISIONS RELATING TO CITIZENSHIP

THE MINISTER

1. The functions of the Federal Government under Part III of this Constitution shall be exercised by such Minister of that Government as the Yang di-Pertuan Agong may from time to time direct, and references in this Schedule to the Minister shall be construed accordingly.

2. A decision of the Federal Government under Part III of this Constitution shall not be subject to appeal or review in any court.

3. (*Deleted by 10 of 1960*).

4. (1) The Minister may delegate to any officer of the Federal Government or, with the consent of the Ruler or Governor of any State, to any officer of the Government of that State, any of his functions under Part III of this Constitution relating to citizenship by registration and the keeping of registers, and, in relation to orders under paragraph (c) of Clause (1) of Article 25 or under Article 26, any of his functions under Article 27 prior to determining whether to make such an order; but any person aggrieved by the decision of a person to whom the functions of the Minister are so delegated may appeal to the Minister.

(2) The Minister may also, with the consent of the Governor of the State, delegate to an authority of a Borneo State or of Singapore (subject or not to conditions providing for an appeal from that authority to the Minister) any of the Minister's functions under Clause (6) of Article 28A which are not required to be delegated by Clause (7) of that Article.

(3) Sub-section (1) shall apply to enrolments under Clause (2) of Article 19A as it applies to citizenship by registration, and to the cancellation under Clause (4) of Article 19A of an enrolment under that Article as it applies to an order under Article 26.

5. (*Deleted by 10 of 1960*).

FUNCTIONS OF MINISTER

6. Subject to Federal law, the Minister may make rules and prescribe forms for the purpose of the exercise of his functions under Part III of this Constitution.

7. Any power of the Federal Government to extend, for purposes of Part III of this Constitution, the period for registering a birth occurring outside the Federation may be exercised either before or after the registration has been effected.

8. (*Deleted by 10 of 1960*).

9. Any notice to be given by the Minister to any person under Article 27 may be sent to that person at his last known address, or, in the case of a person under the age of twenty-one years (not being a married woman), to his parent or guardian at the last known address of the parent or guardian; and if an address at which notice may be sent to any person under this section is not known and cannot after reasonable inquiry be ascertained, the notice may be given by publication in the *Gazette*.

10. (1) It shall be the duty of the Minister to compile and maintain—

- (a) a register of citizens by registration:

- (b) a register of citizens by naturalisation;
- (c) a register of persons to whom certificates have been issued under Clause (1) of Article 30;
- (d) a register of persons who have renounced or been deprived of citizenship under any provision of Part III of this Constitution;
- (e) a register of persons enrolled under Article 19A as citizens who are not Singapore citizens; and
- (f) an alphabetical index of all persons referred to in paragraphs (a) to (e).

(2) References in this section to citizens by registration or by naturalisation shall be construed in accordance with Article 28 and 28A as if this section were included among the provisions to which those Articles apply, except that "citizen by registration" does not include any Singapore citizen.

11. If the Minister has reason to believe that an error appears in any register compiled under Section 10, he shall, after giving notice to the person concerned and after considering such representations from him as he may choose to make, make such alteration on the register as appears to the Minister to be necessary to correct the error.

12. Subject to section 11, the said register shall be conclusive evidence of the matters therein contained.

13-15. (*Deleted by 10 of 1960*).

OFFENCES

16. (1) It shall be an offence punishable with imprisonment for two years or a fine of one thousand dollars or both for any person—

- (a) knowingly to make any false statement with a view to inducing the Minister to grant or refuse any application under Part III of this Constitution, including any application to determine whether the applicant is a citizen by operation of law; or
- (b) to forge or without lawful authority alter any certificate, whether issued or granted in the Federation or elsewhere, or without lawful authority use or have in his possession any certificate which has been so forged or altered; or
- (c) to fail to comply with any requirement imposed upon him by any rules made under section 6 with respect to the delivering up of certificates;

- (d) to personate or falsely represent himself to be or not to be a person to whom a certificate, whether issued in the Federation or elsewhere, has been duly issued or granted.

(2) In this section "certificate" means any certificate of the following descriptions issued under Part III of this Constitution or under the Constitution of the State of Singapore or any previous law relating to citizenship of Singapore, that is to say,—

- (a) any certificate of registration or of naturalisation as a citizen; and
 (b) any certificate of a registration effected at a consulate of the Federation or elsewhere outside the Federation; and
 (c) any such certificate as is mentioned in Article 30.

INTERPRETATION

17. For purposes of Part III of this Constitution references to a person's father or to his parent, or to one of his parents, are in relation to a person who is illegitimate to be construed as references to his mother, and accordingly section 19 of this Schedule shall not apply to such a person.

18. In relation to an adopted child whose adoption has been registered under any written law in force in the Federation, including any such law in force before Merdeka Day, Clause (3) of Article 15 shall have effect as if for the reference to his father there were substituted a reference to the adopter, and references in that Clause and section 9 of this Part of this Schedule to his parent shall be construed accordingly.

19. Any reference in Part III of this Constitution to the status or description of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the status or description of the father at the time of the fathers' death; and where that death occurred before and the birth occurs on or after Merdeka Day, the status or description which would have been applicable to the father had he died after Merdeka Day shall be deemed to be the status or description applicable to him at the time of his death. This section shall have effect in relation to Malaysia Day as it has effect in relation to Merdeka Day.

19A. For the purposes of Part I or II of this Schedule a person born on board a registered ship or aircraft shall be deemed to have been born in

the place in which the ship or aircraft was registered, and a person born on board an unregistered ship or aircraft of the Government of any country shall be deemed to have been born in that country.

19B. For the purposes of Part I or II of this Schedule any new born child found exposed in any place shall be presumed, until the contrary is shown, to have been born there of a mother permanently resident there; and if he is treated by virtue of this section as so born, the date of the finding shall be taken to be the date of the birth.

19C. For the purposes of Part I or II of this Schedule a person shall be treated as having been at any time permanently resident in the Federation if, but only if, he was then resident in Federation and either—

- (a) he then had permission, granted without limit of time under any federal law, to reside there; or
- (b) it is certified by the Federal Government that he is to be treated for those purposes as a permanent resident in the Federation.

20. (1) In calculating for the purposes of Part III of this Constitution any residence in the Federation:—

- (a) a period of absence from the Federation of less than six months;
- (b) a period of absence from the Federation for the purposes of education of such kind, in such country and for such time as may from time to time be either generally or specially approved by the Minister;
- (c) a period of absence from the Federation for reasons of health;
- (d) a period of absence from the Federation on duty in the service of the Federation or of any State, where such period is not inconsistent with the essential continuity of such residence; and
- (e) a period of absence from the Federation for any other cause prescribed generally or specially by the Minister,

shall be treated as residence in the Federation.

(2) In calculating for the purposes of Part III of this Constitution any residence in the Federation:—

- (a) a period during which a person was not lawfully resident in the Federation;

- (b) a period spent as an inmate of any prison or as a person detained in lawful custody in any other place, other than a mental hospital, under the provisions of any written law of the Federation; and
- (c) a period during which a person is allowed to remain temporarily in the Federation under the authority of any pass issued or exemption order made under the provisions of any written law of the Federation relating to immigration,

shall not, except, in the case of any period referred to in paragraph (c), with the consent of the Minister, be treated as residence in the Federation.

(3) For the purposes of Part III of this Constitution a person shall be deemed to be resident in the Federation on a particular day if he had been resident in the Federation before that day and that day is included in any period of absence referred to in sub-section (1).

(4) This section shall apply in relation to any part of the Federation and the territories comprised in that part before Malaysia Day as it applies in relation to the Federation as a whole, and the reference in sub-section (1)(d) to the service of a State shall include, in relation to those territories, the service of any government having jurisdiction therein before Malaysia Day; and in relation to Malaysia Day or any later day sub-section (3) shall apply as if the territories comprised in the Borneo States or Singapore had at all times formed part of the Federation.

21. For the purposes of Part III of this Constitution "consulate of the Federation" includes any office exercising consular functions on behalf of the Federation.

22. Except in so far as the context otherwise requires, references in this Schedule to Part III of this Constitution are to be read as including references to this Schedule.

III

ELECTION OF YANG DI-PERTUAN AGONG AND DEPUTY SUPREME HEAD

PART I

ELECTION OF YANG DI-PERTUAN AGONG

1. (1) A Ruler is qualified to be elected Yang di-Pertuan Agong unless—

- (a) he is minor, or

- (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected, or
- (c) the Conference of Rulers by secret ballot resolves that he is unsuitable by reason of infirmity of mind or body or for any other cause to exercise the functions of Yang di-Pertuan Agong.

(2) A resolution under this section shall not be carried unless at least five members of the Conference have voted in favour of it.

2. The Conference of Rulers shall offer the office of Yang di-Pertuan Agong to the Ruler qualified for election whose State is first on the election list described in section 4 and, if he does not accept the office, to the Ruler whose State is next on the list, and so on until a Ruler accepts the office.

3. When a Ruler to whom the office of Yang di-Pertuan Agong has been offered in accordance with section 2 has accepted the office, the Conference of Rulers shall declare him elected and the Keeper of the Rulers' Seal shall notify the result of the election in writing to both Houses of Parliament.

4. (1) The election list—

- (a) shall for the purposes of the first election be a list comprising the States of all the Rulers in the order in which Their Highnesses then recognize precedence among themselves;
- (b) shall for the purposes of subsequent elections be that list as varied in accordance with sub-section (2) until it is reconstituted under sub-section (3), and shall then be the list so reconstituted, but varied, for the purposes of further elections, in accordance with sub-section (4).

(2) The list in force at the first election shall be varied as follows:

- (a) after each election any States preceding on the list the State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list, and the State whose Ruler was elected shall be omitted;
- (b) whenever there is a change in the Ruler of a State then on the list, that State shall be transferred to the end of the list (and if on the same day there is a change in the Rulers of more than one such State, those States shall be so transferred in the order in which they are then on the list).

(3) When no state remains on the list as varied in accordance with sub-section (2), or if at an election no Ruler of a State on that list is qualified for election or accepts office, the election list shall be reconstituted so as to comprise again the States of all the Rulers, but in the following order, that is to say, those whose Rulers have held the office of Yang di-Pertuan Agong in the order in which their Rulers have held that office, and the others (if any) following them in the order in which they were on the list before it was reconstituted

(4) After each election held in accordance with the reconstituted list that list shall be varied as follows:

- (a) any States preceding on the list the State whose Ruler was elected shall be transferred (in the order in which they are then on the list) to the end of the list; and
- (b) the State whose Ruler was elected shall then be placed last.

PART II

ELECTION OF DEPUTY SUPREME HEAD

5. A Ruler is qualified to be elected Deputy Supreme Head unless—

- (a) he would not be qualified to be elected Yang di-Pertuan Agong, or
- (b) he has notified the Keeper of the Rulers' Seal that he does not desire to be elected.

6. The Conference of Rulers shall not elect a Deputy Supreme Head while the office of Yang di-Pertuan Agong is vacant.

7. The Conference of Rulers shall offer the office of Deputy Supreme Head to the Ruler qualified for election who, on the death of the Yang di-Pertuan Agong last elected, would be the first entitled to be offered the office of Yang di-Pertuan Agong and, if he does not accept it, to the next and so on until a Ruler accepts the office.

PART III

REMOVAL OF YANG DI-PERTUAN AGONG

8. A resolution of the Conference of Rulers to remove the Yang di-Pertuan Agong from office shall not be carried unless at least five members of the Conference have voted in favour of it.

PART IV
GENERAL

9. (*Repealed by 25 of 1963*).

10. In section 4 (3) the expression "Ruler" includes a past Ruler.

IV

**OATHS OF OFFICE OF YANG DI-PERTUAN AGONG AND
TIMBALAN YANG DI-PERTUAN AGONG**

PART I

OATH OF YANG DI-PERTUAN AGONG

Kami.....ibni.....Yang di-Pertuan Agong bagi Malaysia bersumpah dengan melafazkan: Wallahi; Wabillahi; Watallahi; maka dengan lafaz ini berikrar-lah kami dengan sa-sungguh dan dengan sa-benar-nya mengaku akan ta'at setia pada menjalankan dengan 'adilnya pemerintahan bagi Malaysia dengan mengikut sa-bagaimana Undang-undang dan Perlembaga'an Negeri yang telah di-sah dan di-mashhorkan dan yang akan disah dan di-mashhorkan di-masa hadapan ini. Dan lagi kami berikrar mengaku dengan sa-sungguh dan dengan sa-benar-nya memelihara pada setiap masa Ugama Islam dan berdiri tetap di-atas pemerentahan yang 'adil dan aman di-dalam negeri.

PART II

OATH OF TIMBALAN YANG DI-PERTUAN AGONG

Kami.....ibni..... yang telah di-lantek menjadi Timbalan Yang di-Pertuan Agong bagi Malaysia bersumpah dengan melafazkan:

Wallahi; Wabillahi; Watallahi;

dan dengan lafaz ini berikrar-lah kami dengan sa-sungguh dan dengan sa-benar-nya mengaku akan ta'at setia pada menjalankan tanggungan kami yang telah di-tetapkan dan yang akan di-tetapkan pada suatu masa ka-suatu masa yang ka-hadapan ini oleh Undang-undang dan Perlembaga'an Negeri Malaysia.

PART III

ENGLISH TRANSLATIONS

We.....ibni..... Yang di-Pertuan Agong of Malaysia do hereby swear

Wallahi; Wabillahi; Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall justly and faithfully perform (carry out) our duties in the administration of Malaysia in accordance with its laws and Constitution which have been promulgated or which may be promulgated from time to time in the future. Further We do solemnly and truly declare that We shall at all time protect the Muslim Religion and uphold the rules of law and order in the Country.

We.....ibni..... being elected to be the Deputy Yang di-Pertuan Agong of Malaysia do hereby swear:

Wallahi; Wabillahi; Watallahi;

and by virtue of that oath do solemnly and truly declare that We shall faithfully perform (carry out) our duties as Deputy Yang di-Pertuan Agong as laid down and as may from time to time be laid down by the laws and the Constitution of Malaysia.

V

THE CONFERENCE OF RULERS

1. The Conference of Rulers shall, subject to the following provisions of this Schedule, consist of Their Highnesses the Rulers and the Governors of States not having a Ruler.

2. The place of His Highness the Ruler of any State or the Governor of any State as a member of the Conference of Rulers may in any case in which the Constitution of that State so provides be taken by such person as that Constitution may provide.

3. The Conference of Rulers shall have a Rulers' Seal, which shall be kept in the custody of a person appointed by the Conference.

4. The person appointed under section 3 shall be known as the *Penyimpan Mohar Besar Raja-Raja* (Keeper of the Rulers' Seal), shall act as secretary to the Conference of Rulers and shall hold his office at the pleasure of the Conference.

5. A majority of the members of the Conference of Rulers shall form a quorum and, subject to the provisions of this Constitution, the Conference may determine its own procedure.

6. The Keeper of the Rulers' Seal shall convene the Conference of Rulers whenever required to do so by the Yang di-Pertuan Agong or by not less than three members of the Conference and, without being so required, not later than four weeks before the expiry of the term of office

of the Yang di-Pertuan Agong and whenever a vacancy occurs in that office or in the office of the Deputy Supreme Head of the Federation.

7. The Governors of States not having a Ruler shall not be members of the Conference of Rulers for the purposes of any proceedings relating to the election or removal of the Yang di-Pertuan Agong or the election of the Deputy Supreme Head of the Federation or relating solely to the privileges, position, honours and dignities of Their Highnesses or to religious acts, observances or ceremonies.

8. In any case where the Conference of Rulers is not unanimous it shall take its decision by a majority of the members voting, subject however to the provisions of the Third Schedule.

9. Any consent, appointment or advice of the Conference of Rulers required under this Constitution shall be signified under the Rulers' Seal; and where, in the case of any proposed appointment, a majority of the members of the Conference have indicated, by writing addressed to the Keeper of the Rulers' Seal, that they are in favour of the appointment, he shall so signify the advice of the Conference without convening it.

VI*

FORMS OF OATHS AND AFFIRMATIONS

1. *Oath of Office and Allegiance*

"I,....., having been elected (or appointed) to the office of.....do solemnly swear (or affirm) that I will faithfully discharge the duties of that office to the best of my ability, that I will bear true faith and allegiance to Malaysia, and will preserve, protect and defend its Constitution."

(NOTE—A judge of the Federal Court, other than the Lord President, or a judge of a High Court shall use the words 'my judicial duties in that or any other office' in place of the words 'the duties of that office'.)

2. *Oath as Member of Parliament and of Allegiance*

"I,....., having been elected (or appointed) as a member of the House of Representatives (or the Senate) do solemnly swear (or affirm) that I will faithfully discharge my duties as such to the best of my ability, that I will bear true faith and allegiance to Malaysia, and will preserve, protect and defend its Constitution."

* See Article 159(4).

3. *Oath of Secrecy*

"I....., do solemnly swear (or affirm) that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as except as may be required for the due discharge of my duties as such or as may be specially permitted by the Yang di-Pertuan Agong."

VII

ELECTION AND APPOINTMENT OF SENATORS

PART I

ELECTION OF SENATORS

1. (1) (*Repealed by 25 of 1963*).

(2) As often as there is a vacancy among the members elected to the Senate by a State the Yang di-Pertuan Agong shall give notice to the Ruler or Governor of the State that an election of a Senator is required, and the Ruler or Governor shall require the Legislative Assembly to elect a Senator as soon as may be.

2. (1) The names of candidates for election shall be proposed and seconded by members of the Assembly and the member proposing or the member seconding shall submit a statement in writing, signed by the person nominated, that he is willing to serve as a Senator if elected.

(2) When all the nominations have been received, the presiding officer shall announce the names of the persons nominated in alphabetical order and shall then put their names to the vote in that order.

(3) Each member present shall be entitled to vote for as many candidates as there are vacancies to be filled, and the names of the members voting for each candidate shall be recorded; and if any member casts a vote in addition to those allowed by this sub-section that vote shall be void.

(4) The presiding officer shall declare to be elected the candidate or candidates who receive the largest number of votes, but if two or more candidates have an equal number of votes and the number of those candidates is larger than the number of vacancies to be filled, the election of those candidates shall be determined by lot.

3. Notwithstanding anything in section 2, if a vacancy due to the expiry of the term of office of a Senator is to be filled at the same meeting

as a vacancy arising in any other way there shall first be an election to fill the vacancy due to the expiry of the term and then a separate election to fill the other vacancy.

4. The presiding officer shall certify to the clerk to the Senate, by writing under his hand, the name of a person elected as Senator in accordance with the provisions of this Schedule.

5. If any question arises whether a member of the Senate has been duly elected in accordance with the provisions of this Schedule, the decision of the Senate shall be taken and shall be final.

PART II RETIREMENT OF SENATORS

6. }
7. } (*Repealed by 25 of 1963*)

8. The term of office of a person elected or appointed to replace a person who has died or ceased to be a Senator before the expiration of his term shall be the remainder of that term.

VIII PROVISIONS TO BE INSERTED IN STATE CONSTITUTION

PART I FINAL PROVISIONS

Ruler to act on advice

1. (1) In the exercise of his functions under the Constitution of this State or any law or as a member of the Conference of Rulers the Ruler shall act in accordance with the advice of the Executive Council or of a member thereof acting under the general authority of the Council, except as otherwise provided by the Federal Constitution or the State Constitution, but shall be entitled, at his request, to any information concerning the government of the State which is available to the Executive Council.

(2) The Ruler may act in his discretion in the performance of the following functions (in addition to those in the performance of which he may act in his discretion under the Federal Constitution) that is to say—

- (a) the appointment of a Mentri Besar,
- (b) the withholding of consent to a request for the dissolution of the Legislative Assembly.

- (c) the making of a request for a meeting of the Conference of Rulers concerned solely with the privileges, position, honours and dignities of Their Highnesses or religious acts, observances or ceremonies,
- (d) any function as Head of the Muslim religion or relating to the custom of the Malays,
- (e) the appointment of an heir or heirs, consort, Regent or Council of Regency,
- (f) the appointment of persons to Malay customary ranks, titles, honours and dignities and the designation of the functions appertaining thereto,
- (g) the regulation of royal courts and palaces.

(3) State law may make provision for requiring the Ruler to act after consultation with or on the recommendation of any person or body of persons other than the Executive Council in the exercise of any of his functions other than—

- (a) functions exercisable in his discretion,
- (b) functions with respect to the exercise of which provision is made in the State Constitution or the Federal Constitution.

*The Executive Council**

2. (1) The Ruler shall appoint an Executive Council.

(2) The Executive Council shall be appointed as follows, that is to say,—

- (a) the Ruler shall first appoint as Mentri Besar to preside over the Executive Council a member of the Legislative Assembly who in his judgment is likely to command the confidence of the majority of the members of the Assembly; and
- (b) he shall on the advice of the Mentri Besar appoint not more than eight nor less than four other members from among the members of the Legislative Assembly;

but if an appointment is made while the Legislative Assembly is dissolved a person who was a member of the last Legislative Assembly

* See also section 20, *infra*, and Article 71(5), *supra*.

may be appointed but shall not continue to hold office after the first sitting of the next Legislative Assembly unless he is a member thereof.

(3) Notwithstanding anything in this section, a person who is a citizen by naturalisation or by registration, under Article 17 of the Federal Constitution shall not be appointed *Mentri Besar*.

(4) In appointing a *Mentri Besar* the Ruler may, in his discretion, dispense with any provision in the Constitution of this State restricting his choice of a *Mentri Besar*, if in his opinion it is necessary to do so in order to comply with the provisions of this section.

(5) The Executive Council shall be collectively responsible to the Legislative Assembly.

(6) If the *Mentri Besar* ceases to command the confidence of the majority of the members of the Legislative Assembly, then, unless at his request the Ruler dissolves the Legislative Assembly, he shall tender the resignation of the Executive Council.

(7) Subject to sub-section (6), a member of the Executive Council other than the *Mentri Besar* shall hold office at the Ruler's pleasure, but any member of the Council may at any time resign his office.

(8) A member of the Executive Council shall not engage in any trade, business or profession connected with any subject or department for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Executive Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

Legislature of the State

3. The Legislature of the State shall consist of the Ruler and one House, namely, the (Legislative Assembly).

*Composition of Legislative Assembly**

4. (1) The Legislative Assembly shall consist of such number of elected members as the Legislature may by law provide.

(2) The number of elected members of the Legislative Assembly shall be the same as or a multiple of the number of the Federal constituencies into which the State is divided under Article 116 of the Federal Constitution.

* See also section 21, *infra*, and Article 71(5), *supra*.

Qualifications of Members

5. Every citizen of or over the age of twenty-one years who is resident in the State is qualified to be a member of the Legislative Assembly, unless he is disqualified for being a member by the Federal Constitution or this Constitution or by any such law as is mentioned in section 6 of the Eighth Schedule to the Federal Constitution.

Disqualification for Membership of Legislative Assembly

6. (1) Subject to the provisions of this section, a person is disqualified for being a member of the Legislative Assembly if—

- (a) he is and has been found or declared to be of unsound mind;
- (b) he is an undischarged bankrupt;
- (c) he holds an office of profit;
- (d) having been nominated for election to either House of Parliament or to the Legislative Assembly, or having acted as election agent to a person so nominated, he has failed to lodge any return of election expenses required by law within the time and in the manner so required; or
- (e) he has been convicted of an offence by a court of law in the Federation (or, before Malaysia Day, in the territories comprised in the Borneo States or in Singapore) and sentenced to imprisonment for a term of not less than one year or to a fine of not less than two thousand dollars and has not received a free pardon;
- (f) he is disqualified under any law relating to offences in connection with elections to either House of Parliament or to the Legislative Assembly by reason of having been convicted of such an offence or having in proceedings relating to such an election been proved guilty of an act constituting such an offence; or
- (g) he has voluntarily acquired citizenship of, or exercised rights of citizenship in, a foreign country or has made a declaration of allegiance to a foreign country.

(2) The disqualification of a person under paragraph (d) or paragraph (e) of sub-section (1) may be removed by the Ruler and shall, if not so removed, cease at the end of the period of five years beginning with the date on which the return mentioned in the said paragraph (d) was

required to be lodged or, as the case may be, the date on which the person convicted as mentioned in the said paragraph (e) was released from custody or the date on which the fine mentioned in the said paragraph (e) was imposed, and a person shall not be disqualified under paragraph (g) of sub-section (1) by reason only of anything done by him before he became a citizen.

Provision against Double Membership

7. A person shall not at the same time be a member of the Legislative Assembly for more than one constituency.

Decision as to Disqualification

8. If any question arises whether a member of the Legislative Assembly has become disqualified for membership, the decision of the Assembly shall be taken and shall be final.

Provided that this section shall not be taken to prevent the practice of the Assembly postponing a decision in order to allow for the taking or determination of any proceedings that may affect the decision (including proceedings for the removal of the disqualification).

Summoning, Prorogation and Dissolution of Legislative Assembly

9. (1) The Ruler shall from time to time summon the Legislative Assembly and shall not allow six months to elapse between the last sitting in one session and the date appointed for its first sitting in the next session.

(2) The Ruler may prorogue or dissolve the Legislative Assembly.

(3) The Legislative Assembly unless sooner dissolved shall continue for five years from the date of its first sitting and shall then stand dissolved.

(4) Whenever the Legislative Assembly is dissolved a general election shall be held within sixty days from the date of the dissolution and the new Legislative Assembly shall be summoned to meet on a date not later than ninety days from that date.

(5) A casual vacancy shall be filled within sixty days from the date on which it is established that there is a vacancy.

Speaker of the Legislative Assembly

10. (1) The Legislative Assembly shall from time to time choose one of its members to be Speaker and shall transact no business while the office of Speaker is vacant other than the election of a Speaker.

(2) A member holding office as Speaker shall vacate his office on ceasing to be a member of the Legislative Assembly and may at any time resign his office.

(3) During any absence of the Speaker from a sitting of the Legislative Assembly such other member as may be determined by the rules of procedure of the Assembly shall act as Speaker.

Exercise of Legislative Power

11. (1) The power of the Legislature to make laws shall be exercised by Bills passed by the Legislative Assembly and assented to by the Ruler.

(2) No Bill or amendment involving expenditure from the Consolidated Fund of the State may be introduced or moved in the Legislative Assembly except by a member of the Executive Council.

(3) A Bill shall become law on being assented to by the Ruler, but no law shall come into force until it has been published, without prejudice, however, to the power of the Legislature to postpone the operation of any law or to make laws with retrospective effect.

FINANCIAL PROVISIONS*

No Taxation unless Authorised by Law

12. No tax or rate shall be levied by or for the purposes of the State except by or under the authority of law.

Expenditure charged on Consolidated Fund

13. (1) There shall be charged on the Consolidated Fund of the State, in addition to any grant, remuneration or other moneys so charged by any other provision of the Constitution of the State or by State law—

- (a) the Civil List of the Ruler and the remuneration of the Speaker of the Legislative Assembly;
- (b) all debt charges for which the State is liable; and
- (c) any moneys required to satisfy any judgment, decision or award against the State by any court or tribunal

* These financial provisions (sections 12 to 17) have, with effect from January 1, 1958, been adopted by all States: see, in addition to Part III of each of the Constitutions of Penang and Malacca, *infra*, *Johore Gazette Notification (New Series) 43A of 1957*, *Kedah Legal Notification 27 of 1957*, *Kelantan Gazette Notification 241 of 1957*, *Negeri Sembilan Gazette Notification 453 of 1957*, *Pahang Gazette Notification 270 of 1957*, *Perak Gazette Notification 1413 of 1957*, *Perlis Legal Notification 5 of 1957*, *Selangor Gazette Notification 403 of 1957*, and *Trengganu Gazette Notification 227 of 1957*.

(2) For the purposes of this provision debt charges include interest, sinking fund charges, repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of debt created thereby.

Annual Financial Statement

14. (1) Subject to sub-section (3), the Ruler shall, in respect of every financial year, cause to be laid before the Legislative Assembly a statement of estimated receipts and expenditure of the State for that year, and, unless the State Legislature in respect of any year otherwise provides, that statement shall be so laid before the commencement of that year.

(2) The estimates of expenditure shall show separately—

- (a) the total sums required to meet expenditure charged on the Consolidated Fund; and
- (b) subject to sub-section (3), the sums respectively required to meet the heads of other expenditure proposed to be met from the Consolidated Fund.

(3) The estimated receipts to be shown in the said statement do not include any sums received by way of Zakat, Fitrah and Bait-ul-Mal or similar Muslim revenue; and the sums to be shown under paragraph (b) of sub-section (2) do not include—

- (a) sums representing the proceeds of any loan raised by the State for specific purposes and appropriated for those purposes by the law authorising the raising of the loan;
- (b) sums representing any money or interest on money received by the State subject to a trust and to be applied in accordance with the terms of the trust.

(4) The said statement shall also show, so far as is practicable, the assets and liabilities of the State at the end of the last completed financial year, the manner in which those assets are invested or held, and the general heads in respect of which those liabilities are outstanding

Supply Bills

15. The heads of expenditure to be met from the Consolidated Fund of the State but not charged thereon, other than the sums mentioned in paragraphs (a) and (b) of section 14(3) of the Eighth Schedule to the

Federal Constitution, shall be included in a Bill, to be known as a Supply Bill, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

Supplementary and Excess Expenditure

16. If in respect of any financial year it is found—

- (a) that the amount appropriated by the Supply Enactment for that purpose is insufficient, or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Supply Enactment; or
- (b) that any moneys have been expended for any purpose in excess of the amount (if any) appropriated for that purpose by the Supply Enactment,

a supplementary estimate showing the sums required or spent shall be laid before the Legislative Assembly and the heads of any such expenditure shall be included in a Supply Bill.

Withdrawals from the Consolidated Fund

17. (1) Subject to the following provisions of this section, no moneys shall be withdrawn from the Consolidated Fund unless they are—

- (a) charged on the Consolidated Fund; or
- (b) authorised to be issued by a Supply Enactment.

(2) No moneys shall be withdrawn from the Consolidated Fund except in the manner provided by federal law.

(3) Sub-section (1) does not apply to any such sums as are mentioned in paragraphs (a) and (b) of section 14(3) of the Eighth Schedule to the Federal Constitution.

(4) The State Legislature may in respect of any financial year authorise, before the passing of the Supply Enactment, expenditure for part of the year and the issue from the Consolidated Fund of any moneys required to meet that expenditure.

IMPARTIAL TREATMENT OF STATE EMPLOYEES

Impartial Treatment of State Employees

18. All persons of whatever race in the same grade of the service of the State, shall, subject to the terms and conditions of their employment, be treated impartially.

AMENDMENT OF THE CONSTITUTION

Amendment of the Constitution

19. (1) The following provisions of this section shall have effect with respect to the amendment of the Constitution of this State.

(2) The provisions affecting succession to the throne and the position of the Ruling Chiefs and similar Malay customary dignitaries may not be amended by the State Legislature.

(3) Any other provisions may, subject to the following provisions of this section, be amended by an Enactment of the State Legislature but may not be amended by any other means.

(4) A Bill for making an amendment to the said Constitution (other than an amendment excepted from the provisions of this sub-section) shall not be passed by the Legislative Assembly unless it has been supported on Second and Third Readings by the votes of not less than two-thirds of the total number of members thereof.

(5) The following amendments are excepted from the provisions of sub-section (4), that is to say—

- (a) any amendment consequential on such a law as is mentioned in section 4 or section 21 of the Eighth Schedule to the Federal Constitution; and
- (b) any amendment the effect of which is to bring the Constitution of this State into accord with any of the provisions of the said Schedule, but only if it is made after the Legislative Assembly has been elected in accordance with section 4 of that Schedule.

(6) This section does not invalidate any provision of the Constitution of this State requiring the consent of any body of persons to any amendment affecting—

- (a) the appointment and attributes of an heir or heirs to the throne, of the Ruler's Consort or of the Regent or Members of the Council of Regency of the State,
- (b) the removal, withdrawal, or abdication of the Ruler or his heir or heirs.
- (c) the appointment and attributes of the Ruling Chiefs or similar Malay customary dignitaries and of members of religious or customary Advisory Councils or similar bodies,

- (d) the establishment, regulation, confirmation and deprivation of Malay customary ranks, titles, honours, dignities and awards and the attributes of the holders thereof and the regulation of the royal courts and palaces.
- (7) In this section "amendment" includes addition and repeal.

PART II
**TEMPORARY PROVISIONS ALTERNATIVE TO
 PROVISIONS IN PART I**

The Executive Council (alternative to Section 2)

20. (1) The Ruler shall appoint an Executive Council.

(2) The Executive Council shall be appointed as follows that is to say—

- (a) the Ruler shall first appoint as Mentri Besar to preside over the Executive Council a person who in his judgment is likely to command the confidence of the majority of the Assembly; and
- (b) he shall on the advice of the Mentri Besar appoint not more than eight nor less than four other persons.

(3) Notwithstanding anything in this section, a person who is a citizen by naturalisation or by registration under Article 17 of the Federal Constitution shall not be appointed Mentri Besar.

(4) In appointing a Mentri Besar the Ruler may in his discretion dispense with any provision in the Constitution of this State restricting his choice of a Mentri Besar, if in his opinion it is necessary to do so in order to comply with the provisions of this section.

(5) The Executive Council shall be collectively responsible to the Legislative Assembly.

(6) The Mentri Besar shall cease to hold office at the expiration of a period of three months from the date of his appointment, unless before the expiration of that period a resolution of confidence in him has been passed by the Legislative Assembly; and if at any time he ceases to command the confidence of the majority of the members of the Legislative Assembly, then unless at his request the Ruler dissolves the

Legislative Assembly, he shall tender the resignation of the Executive Council.

(7) Subject to sub-section (6), a member of the Executive Council other than the Mentri Besar shall hold office at the Ruler's pleasure, but any member of the Council may at any time resign his office.

(8) A member of the Executive Council shall not engage in any trade, business or profession connected with any subject or department for which he is responsible and shall not, so long as he is engaged in any trade, business or profession, take part in any decision of the Executive Council relating to that trade, business or profession or in any decision likely to affect his pecuniary interests therein.

Composition of Legislative Assembly (alternative to section 4)

21. (1) The Legislative Assembly shall consist of—

- (a) such number of elected members as the Legislature may by law provide, and
- (b) such number of other members, being less than the number of elected members, as the Ruler may appoint;

and, until other provision is made as aforesaid, the number of elected members shall be the number specified in Article 171 of the Federal Constitution.

(2) Notwithstanding anything in section 6 of the Eighth Schedule to the Federation Constitution, a person shall not be disqualified for being an appointed member of the Legislative Assembly by reason only that he holds an office of profit.

PART III

MODIFICATIONS OF PARTS I AND II IN RELATION TO MALACCA AND PENANG

22. In the application of Parts I and II of this Schedule to the States of Malacca and Penang references to the Governor shall be substituted for references to the Ruler, and the following shall be omitted, that is to say, paragraphs (c) to (g) of section 1(2), section 2(4), sub-sections (2) and (6) of section 19, section 20(4), in section 14(3) the words preceding "the sums to be shown under paragraph (b)" and in sub-section 19(3) the word "other" in the first place where it occurs.

23. (1) Part I of this Schedule shall apply to the States of Sabah, Sarawak and Singapore as it applies to the States of Penang and Malacca except for the modifications of section 10 stated in sub-section (2) of this section.

(2) Section 10 in its application to the State of Sabah, Sarawak or Singapore may be modified by the substitution for the words "one of its members to be Speaker" in sub-section (1) of the words "as Speaker such person as the Assembly may determine", by the omission of the word "other" in sub-section (3), and by the addition of a sub-section (4)—

"(4) A person shall not be chosen to be Speaker, unless he is a member or qualified to be a member of the Legislative Assembly, and the Speaker, whether a member or not, shall vacate his office on the dissolution of the Assembly, and may at any time resign his office."

IX LEGISLATIVE LISTS

LIST I—FEDERAL LIST

1. External affairs, including—

- (a) Treaties, agreements and conventions with other countries and all matters which bring the Federation into relations with any other country;
- (b) Implementation of treaties, agreements and conventions with other countries;
- (c) Diplomatic, consular and trade representation;
- (d) International organizations; participation in international bodies and implementation of decisions taken thereat;
- (e) Extradition; fugitive offenders; admission into, and emigration and expulsion from, the Federation;
- (f) Passports; visas; permits of entry or other certificates; quarantine;
- (g) Foreign and extra-territorial jurisdiction; and
- (h) Pilgrimages to places outside Malaysia.

2. Defence of the Federation or any part thereof, including—

- (a) Naval, military and air forces and other armed forces;
- (b) Any armed forces attached to or operating with any of the armed forces of the Federation; visiting forces;
- (c) Defence works; military and protected areas; naval, military and air force bases; barracks; aerodromes and other works;
- (d) Manoeuvres;
- (e) War and peace; alien enemies and enemy aliens; enemy property; trading with an enemy; war damage; war risk insurance;
- (f) Arms, fire-arms, ammunition and explosives;
- (g) National service; and
- (h) Civil defence.

3. Internal security, including—

- (a) Police; criminal investigation; registration of criminals; public order;
- (b) Prisons; reformatories; remand homes; places of detention; probation of offenders; juvenile offenders;
- (c) Preventive detention*; restriction of residence;
- (d) Intelligence services; and
- (e) National registration.

4. Civil and criminal law and procedure and the administration of justice, including—

- (a) Constitution and organization of all courts other than Muslim Courts;
- (b) Jurisdiction and powers of all such courts;
- (c) Remuneration and other privileges of the judges and officers presiding over such courts;
- (d) Persons entitled to practise before such courts;
- (e) Subject to paragraph (ii), the following—

* See Article 151.

- (i) Contract; partnership, agency and other special contracts; master and servant; inns and inn-keepers; actionable wrongs; property and its transfer and hypothecation, except land; bona vacantia; equity and trusts; marriage, divorce and legitimacy; married women's property and status; interpretation of federal law; negotiable instruments; statutory declarations; arbitration; mercantile law; registration of businesses and business names; age of majority; infants and minors; adoption; succession, testate and intestate; probate and letters of administration; bankruptcy and insolvency; oaths and affirmations; limitation; reciprocal enforcement of judgments and orders; the law of evidence;
- (ii) the matters mentioned in paragraph (i) do not include Muslim personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate and intestate;

- (f) Official secrets; corrupt practices;
- (g) Use or exhibition of coats of arms, armorial bearings, flags, emblems, uniforms, orders and decorations other than those of a State;
- (h) Creation of offences in respect of any of the matters included in the Federal List or dealt with by federal law;
- (i) Indemnity in respect of any of the matters in the Federal List or dealt with by federal law;
- (j) Admiralty Jurisdiction;
- (k) Ascertainment of Muslim Law and other personal laws for purposes of federal law; and
- (l) Betting and lotteries.

5. Federal citizenship and naturalization; aliens.

6. The machinery of government subject to the State List, but including—

- (a) Elections to both Houses of Parliament and the Legislative Assemblies of the States and all matters connected therewith;
- (b) The Armed Forces Council and the Commissions to which Part X applies;

- (c) Federal services, including the establishment of services common to the Federation and the States; services common to two or more States;
 - (d) Pensions and compensation for loss of office; gratuities and conditions of service;
 - (e) Local government and town planning in, and water supply to the federal capital*;
 - (f) Federal Government contracts;
 - (g) Federal public authorities; and
 - (h) Purchase, acquisition and holding of, and dealing with, property for federal purposes.
7. Finance, including—
- (a) Currency, legal tender and coinage;
 - (b) National savings and savings banks;
 - (c) Borrowing on the security of the Federal Consolidated Fund;
 - (d) Loans to or borrowing by the States, public authorities and private enterprise;
 - (e) Public debt of the Federation;
 - †(f) Financial and accounting procedure, including procedure for the collection, custody and payment of the public moneys of the Federation and of the States, and the purchase, custody and disposal of public property other than land of the Federation and of the States;
 - †(g) Audit and accounts of the Federation and the States and other public authorities;
 - (h) Taxes; rates in the federal capital**;
 - (i) Fees in respect of any of the matters in the Federal List or dealt with by federal law;
 - (j) Banking; money-lending; pawnbrokers; control of credit;
 - (k) Bills of exchange, cheques, promissory notes and other similar instruments;
 - (l) Foreign exchange; and
 - (m) Capital issues; stock and commodity exchanges.

* See foot-note to Article 154.

† See Article 108(4)(f).

** See foot-note to Article 154.

8. Trade, commerce and industry, including—
- (a) Production, supply and distribution of goods; price control and food control; adulteration of foodstuffs and other goods; .
 - (b) Imports into, and exports from, the Federation;
 - (c) Incorporation, regulation and winding up of corporations other than municipal corporations (but including the municipal corporation of the federal capital); regulation of foreign corporations; bounties on production in or export from the Federation;
 - (d) Insurance, including compulsory insurance;
 - (e) Patents; designs; inventions; trade marks and mercantile marks; copyrights;
 - (f) Establishment of standards of weights and measures;
 - (g) Establishment of standards of quality of goods manufactured in or exported from the Federation;
 - (h) Auctions and auctioneers;
 - (i) Industries; regulation of industrial undertakings;
 - (j) Subject to item (2)(c) of the State List: Development of mineral resources; mines, mining, minerals and mineral ores; oils and oilfields; purchase, sale, import and export of minerals and mineral ores; petroleum products; regulation of labour and safety in mines and oilfields;
 - (k) Factories; boilers and machinery; dangerous trades; and
 - (l) Dangerous and inflammable substances.
9. Shipping navigation and fisheries, including—
- (a) Shipping and navigation on the high seas and in tidal and inland waters†;
 - (b) Ports and harbours; foreshores;
 - (c) Lighthouses and other provisions for the safety of navigation;
 - (d) Maritime and estuarine fishing and fisheries, excluding turtles;
 - (e) Light dues; and
 - (f) Wrecks and salvage.

† See Article 78.

10. Communications and transport, including—

- (a) Roads, bridges, ferries and other means of communication if declared to be federal by or under federal law;
- (b) Railways, excluding Penang Hill Railway;
- (c) Airways, aircraft and air navigation; civil aerodromes; provisions for the safety of aircraft;
- (d) Regulation of traffic by land, water and air other than on rivers outside harbour areas wholly within one State;
- (e) Carriage of passengers and goods by land, water and air;
- (f) Mechanically propelled vehicles;
- (g) Posts and telecommunications; and
- (h) Wireless, broadcasting and television.

11. Federal works and power, including—

- (a) Public works for federal purposes;
- (b) Water supplies, rivers and canals, except those wholly within one State or regulated by an agreement between all the States concerned; production, distribution and supply of water power; and
- (c) Electricity; gas and gas works; and other works for the production and distribution of power and energy.

12. Surveys, inquiries and research, including—

- (a) Census; registration of births and deaths; registration of marriages; registration of adoptions other than adoptions under Muslim law or Malay custom;
- (b) Survey of the Federation; social, economic and scientific surveys; meteorological organizations;
- (c) Scientific and technical research; and
- (d) Commissions of inquiry.

13. Education including—

- (a) Elementary, secondary, and university education; vocational and technical education; training of teachers, registration and control of teachers, managers and schools; promotion of special studies and research; scientific and literary societies;

- (b) Libraries; museums; ancient and historical monuments and records; archaeological sites and remains.

14. Medicine and health, including sanitation in the federal capital, and including—

- (a) Hospitals, clinics and dispensaries; medical profession; maternity and child welfare; lepers and leper institutions;
- (b) Lunacy and mental deficiency, including places for reception and treatment;
- (c) Poisons and dangerous drugs; and
- (d) Intoxicating drugs and liquors; manufacture and sale of drugs.

15. Labour and social security including—

- (a) Trade unions; industrial and labour disputes; welfare of labour including housing of labourers by employer; employer's liability and workmen's compensation;
- (b) Unemployment insurance; health insurance; widows', orphans' and old age pensions; maternity benefits; provident and benevolent funds; superannuation; and
- (c) Charities and charitable institutions; charitable trusts and trustees excluding Muslim Wakfs; Hindu endowments.

16. Welfare of the aborigines.

17. Professional occupations other than those specifically enumerated.

18. Holidays other than State holidays; standard of time.

19. Unincorporated societies.

20. Control of agricultural pests; protection against such pests; prevention of plant diseases.

21. Newspapers; publications; publishers; printing and printing presses.

22. Censorship.

23. Subject to item 5(f) of the State List: theatres; cinemas; cinematograph films; places of public amusement.

24. Federal housing and improvement trusts.

25. Co-operative societies.

LIST II—STATE LIST

1. Muslim Law and personal and family law of persons professing the Muslim religion, including the Muslim Law relating to succession, testate and intestate, betrothal, marriage, divorce, dower, maintenance, legitimacy, guardianship, gifts, partitions and non-charitable trusts; Muslim Wakfs and the definition and regulation of charitable and religious trusts, the appointment of trustees and the incorporation of persons in respect of Muslim religious and charitable endowments, institutions, trusts, charities and charitable institutions operating wholly within the State; Malay custom; Zakat, Fitrah and Baitul-Mal or similar Muslim revenue; mosques or any Muslim public place of worship, creation and punishment of offences by persons professing the Muslim religion against precepts of that religion, except in regard to matters included in the Federal List; the Constitution, organization and procedure of Muslim courts, which shall have jurisdiction only over persons professing the Muslim religion and in respect only of any of the matters included in this paragraph, but shall not have jurisdiction in respect of offences except in so far as conferred by the federal law; the control of propagating doctrines and beliefs among persons professing the Muslim religion; the determination of matters of Muslim Law and doctrine and Malay custom.

2. Land, including—

- (a) Land tenure; relation of landlord and tenant; registration of titles and deeds relating to land*; colonization, land improvement and soil conservation; rent restriction;
- (b) Malay reservations or, in the Borneo States, native reservations†;
- (c) Permits and licences for prospecting for mines; mining leases* and certificates;
- (d) Compulsory acquisition of land‡;
- (e) Transfer of land, mortgages, leases and charges in respect of land; easements*; and
- (f) Escheat; treasure trove excluding antiquities.

* See Article 76(4).

† See Article 89.

‡ See the Land Acquisition Act, 1960 (No. 34 of 1960), enacted under Article 76(4).

3. Agriculture and forestry, including—
 - (a) Agriculture and agricultural loans; and
 - (b) Forests.
4. Local government*† outside the federal capital, including—
 - (a) Local administration; municipal corporations; local, town and rural board and other local authorities; local government services; local rates*; local government elections;
 - (b) Obnoxious trades and public nuisances in local authority areas;
 - (c) Housing and provision for housing accommodation improvement trusts;
5. Other services of a local character, that is to say—
 - (a) Fire brigades, except in the federal capital;
 - (b) Boarding houses and lodging houses;
 - (c) Burial and cremation grounds;
 - (d) Pounds and cattle trespass;
 - (e) Markets and fairs; and
 - (f) Licensing of theatres, cinemas and places of public amusement.
6. State works and water, that is to say—
 - (a) Public works for State purposes;
 - (b) Roads, bridges and ferries other than those in the Federal List, regulation of weight and speed of vehicles on such roads; and
 - (c) Subject to the Federal List, water (including water supplies, rivers and canals) control of silt; riparian rights.
7. Machinery of the State Government, subject to the Federal List, but including—
 - (a) Civil List and State pensions;
 - (b) Exclusive State services;
 - (c) Borrowing on the security of the State Consolidated Fund;

* See Article 76(4).

† See Article 95A (6).

- (d) Loans for State purposes;
 - (e) Public debt of the State; and
 - (f) Fees in respect of any of the matters included in the State List or dealt with by State law.
8. State holidays.
9. Creation of offences in respect of any of the matters included in the State List or dealt with by State law proof of State law and of things done thereunder, and proof of any matter for purposes of State law.
10. Inquiries for State purposes, including commissions of inquiry and collection of statistics with respect to any of the matters included in the State List or dealt with by State law.
11. Indemnity in respect of any of the matters in the State List or dealt with by State law.
12. Turtles and riverine fishing.

LIST IIA—SUPPLEMENT TO STATE LIST FOR BORNEO STATES

13. Native law and custom, including the personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate; registration of adoptions under native law or custom; the determination of matters of native law or custom; the Constitution, organization, and procedure of native courts (including the right of audience in such courts), and the jurisdiction and powers of such courts, which shall extend only to the matters included in this paragraph and shall not include jurisdiction in respect of offences except in so far as conferred by federal law.
14. Incorporation of authorities and other bodies set up by State law, if incorporated directly by State law, and regulation and winding-up of corporations so created.
15. Ports and harbours, other than those declared to be federal by or under federal law; regulation of traffic by water in ports and harbours or on rivers wholly within the State, except traffic in federal ports or harbours; foreshores.
16. Cadastral land surveys.
17. Libraries, museums, ancient and historical monuments and records and archaeological sites and remains, other than those declared to be federal by or under federal law.
18. In Sabah, the Sabah Railway.

LIST IIB—SUPPLEMENT TO STATE LIST FOR SINGAPORE

13. Education, including the matters specified in items 13(a) and (b) of the Federal List.
14. Medicine and health, including the matters specified in items 14(a) to (d) of the Federal List.
15. Labour and social security, including the matters specified in items 15(a) and (b), but not those specified in item 15(c) of the Federal List.
16. Pensions, gratuities and other like allowances, and compensation for loss of office, in respect of service under the State (including any government service in the State before Malaysia Day).
17. Factories; boilers and machinery; dangerous trades; dangerous and inflammable substances.
18. Electricity; gas and gas works.
19. Itinerant hawkers.

LIST III—CONCURRENT LIST

1. Social welfare; social services subject to Lists I and II; protection of women, children and young persons.
2. Scholarships.
3. Protection of wild animals and wild birds; National Parks.
4. Animal husbandry; prevention of cruelty to animals; veterinary services; animal quarantine.
5. Town and country planning, except in the federal capital.
6. Vagrancy and itinerant hawkers.
7. Public health, sanitation (excluding sanitation in the federal capital) and the prevention of diseases.
8. Drainage and irrigation*.
9. Rehabilitation of mining land and land which has suffered soil erosion.

LIST IIIA—SUPPLEMENT TO CONCURRENT LIST FOR BORNEO STATES

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.
11. Adulteration of foodstuffs and other goods.

* See Article 78.

12. Shipping under fifteen registered tons, including the carriage of passengers and goods by such shipping, maritime and estuarine fishing and fisheries.

13. The production, distribution and supply of water power and of electricity generated by water power.

14. Agricultural and forestry research, control of agricultural pests, and protection against such pests; prevention of plant diseases.

15. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.

16. Theatres; cinemas; cinematograph films; places of public amusement.

17. Elections to the State Assembly held during the period of indirect elections.

18. In Sabah until the end of the year 1970 (but not in Sarawak), medicine and health, including the matters specified in items 14(a) to (d) of the Federal List.

LIST IIIB—SUPPLEMENT TO CONCURRENT LIST FOR SINGAPORE

10. Personal law relating to marriage, divorce, guardianship, maintenance, adoption, family law, gifts or succession testate or intestate.

11. Loans to, or borrowing by, the State or statutory authorities exercising powers vested in them by the State law in Singapore.

12. (a) Production, supply and distribution of goods, but not bounties on production; price control and food control; adulteration of foodstuffs and other goods;

(b) Imports into, and exports from, the Federation, but not bounties on export;

(c) Insurance, including compulsory insurance;

(d) Auctions and auctioneers;

(e) Industries; regulation of industrial undertakings;

(f) Banking; money-lending; pawnbrokers.

13. Shipping and navigation, including the matters specified in items 9(a), (b), (c), (e) and (f) of the Federal List.

14. Professional occupations other than those specifically enumerated in the Federal List.

15. Unincorporated societies.

16. Charities and charitable trusts and institutions in the State (that is to say, operating wholly within, or created and operating in, the State) and their trustees, including the incorporation thereof and the regulation and winding-up of incorporated charities and charitable institutions in the State.

17. Newspapers; publications; publishers; printing and printing presses.

18. Censorship.

19. Theatres; cinemas; cinematograph films; places of public amusement.

20. Until the end of August, 1968, and thereafter until Parliament with the concurrence of the State government otherwise provides, elections to the Legislative Assembly.

X

GRANTS AND SOURCES OF REVENUE ASSIGNED TO STATES

PART I

CAPITATION GRANT

1. (1) The capitation grant payable to each State in respect of a financial year shall be at the following rates—

- (a) for the first 50,000 persons at the rate of \$15 per person;
- (b) for the next 200,000 persons at the rate of \$10 per person;
- (c) for the remainder at the rate of \$4 per person.

and shall be based on the population of the State as determined at the last census taken before the beginning of the preceding financial year.

(2) (*Repealed by 25 of 1963*).

PART II

STATE ROAD GRANT

2. The State road grant payable to each of the States of Malaya in respect of a financial year shall be calculated by multiplying—

- (a) the average cost to a State of maintaining a mile of State road at the minimum standard determined for State roads in those

States by the Federal Government after consultation with the National Finance Council; by

- (b) so much of the mileage of State roads in that State as qualifies for grant.

3. For the purposes of section 2 the mileage of State roads in a State shall be taken to be that mileage as on the thirty-first day of December of the basis year, and the average mentioned in paragraph (a) of that section shall be taken to be the average throughout the States of Malaya in the basis year.

4. A length of State road qualifies for grant if it is actually maintained by the Public Works Department of the State at or above the minimum standard mentioned in section 2(a); except that any length not qualifying for grant in the preceding financial year qualifies for grant only if the Federal Government has agreed to its so qualifying.

5. In this Part of this Schedule—

- (a) "State road" means any public road other than a federal road,* and any other road other than a federal road to which the public has access;
- (b) "basis year" means the financial year beginning two years earlier than the financial year in respect of which the grant is made.

6. (1) The State road grant payable to Sabah or Sarawak shall, in each of the years 1964 and 1965, be payable at the rate of \$4,500 a mile in respect of a mileage in Sabah of 1,151 miles and in Sarawak of such amount as may be agreed between the Federal and State Governments.

(2) Thereafter sections 2 to 5 shall apply to the State road grant so payable with the following modifications:

- (a) the average cost and minimum standard mentioned in section 2(a) shall be respectively the average in the State and the minimum standard determined for State roads in the State; and
- (b) any length of road maintained by a local authority at the expense of the State shall be treated as maintained by the Public Works Department of the State.

* Provision is made for the declaration of roads, bridges, ferries and other means of communication as Federal roads, etc., by the Federal Roads Ordinance, 1959 (No. 42 of 1959).

PART III

SOURCES OF REVENUE ASSIGNED TO STATES

- †1. Revenue from toddy shops.
2. Revenue from lands, mines and forests.
- †3. Revenue from licences other than those connected with mechanically propelled vehicles, electrical installations and registration of businesses.
- †4. Entertainments duty.
- †5. Fees in courts other than federal courts.
- †6. Fees and receipts in respect of specific services rendered by departments of State Governments.
- †7. Revenue of town boards, town councils, rural boards, local councils and similar local authorities other than—
 - (a) municipalities established under any Municipal Ordinance;
 - (b) those town boards, town councils, rural boards, local councils and similar local authorities which have power under written law to retain their revenues and control the spending thereof.
- †8. Receipts in respect of water supplies, including water rates.
9. Rents on State property.
10. Interest on State balances.
11. Receipts from land sales and sales of State property.
- †12. Fines and forfeitures in courts other than federal courts.
13. Zakat, Fitrah and Bait-ul-Mal and similar Muslim revenue.
- †14. Treasure trove.

PART IV

SPECIAL GRANTS TO BORNEO STATES

1. (1) In the case of Sarawak, a grant of \$5,800,000 in each year.
- (2) In the case of Sarawak, a grant of which the amount in 1964 and each of four following years shall be respectively \$3½ m., \$7 m., \$11½ m., \$16 m., and \$21 m., and in later years shall be fixed on a review under Article 112D.

† See Article 110 (2).

2. (1) In the case of Sabah, a grant of an amount equal in each year to two-fifth of the amount by which the net revenue derived by the Federation from Sabah exceeds the net revenue which would have been so derived in the year 1963 if—

- (a) the Malaysia Act had been in operation in that year as in the year 1964; and
- (b) the net revenue for the year 1963 were calculated without regard to any alteration of any tax or fee made on or after Malaysia Day;

("net revenue" meaning for this purpose the revenue which accrues to the Federation, less the amounts received by the State in respect of assignments of that revenue).

(2) In the case of Sabah, for any year before 1968 in which the State road grant is less than \$5,179,500, a supplement to that grant of an amount equal to the deficiency.

3. In either case, for any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or to mechanically propelled road vehicles, then during the continuance of that power, a grant equal to the cost to the State in the year of the State road transport department.

PART V

ADDITIONAL SOURCES OF REVENUE ASSIGNED TO BORNEO STATES

1. Import duty and excise duty on petroleum products.
2. Export duty on timber and other forest produce.
3. So long as the royalty levied by the State on any mineral chargeable with export duty other than tin (but including mineral oils) does not amount to 10 per cent *ad valorem* calculated as for export duty, export duty, on that mineral or such part of the export duty as makes the total royalty and duty on exported mineral up to 10 per cent of *ad valorem* so calculated.
4. In the case of Sabah, so long as medicine and health remains an item in the Concurrent List and expenses in respect of that item are borne

by the State, 30 per cent of all customs revenue other than that in respect of the duties mentioned in sections 1, 2 and 3.

5. For any year before 1974 and, if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the carriage of passengers and goods by land or with respect to mechanically propelled road vehicles or licences connected with those vehicles, then during the continuance of that power, fees from such licences.

6. For any year before 1974, and if at the beginning of 1974 the Legislature of the State has power to make laws with respect to the registration of mechanically propelled vehicles, then during the continuance of that power, fees from the registration of such vehicles.

7. State sales taxes.

8. Fees and dues from ports and harbours other than federal ports and harbours.

XI

PROVISIONS OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE, 1948 (MALAYAN UNION ORDINANCE No. 7 OF 1948), APPLIED FOR INTERPRETATION OF THE CONSTITUTION

SECTION	SUBJECT MATTER
2 (56)	<i>Meaning of "month"—</i> "month" means calendar month according to the Gregorian calendar.
2 (61)	<i>Meaning of "person" and "party"—</i> "person" and "party" includes any body of persons, corporate or unincorporate
2 (88)	<i>Definition of "subsidiary legislation"—</i> "subsidiary legislation" means any Order in Council, proclamation, rule, regulation, order, notification, by-law or other instrument made under any Ordinance, Enactment or other lawful authority and having legislative effect.
2 (94)	<i>Construction of masculine gender—</i> words importing the masculine gender include females.

SECTION	SUBJECT MATTER
2 (95)	<i>Construction of singular or plural</i> — words in the singular include the plural, and words in the plural include the singular.
2 (96)	<i>Meaning of "writing"</i> — "writing" and expressions referring to writing include printing, lithography, typewriting, photography, and other modes of representing or reproducing words or figures in visible form.
2 (98)	<i>Meaning of "year"</i> — "year" means a year reckoned according to the Gregorian calendar.
7	<i>Forms</i> — Save as is otherwise expressly provided, whenever forms are prescribed slight deviations therefrom, not affecting the substance or calculated to mislead, shall not invalidate them.
*13	<i>Effect of repeal</i> — Where a written law repeals in whole or in part any other written law, then, unless the contrary intention appears, the repeal shall not— <ol style="list-style-type: none"> (a) revive anything not in force or existing at the time at which the repeal takes effect; or (b) affect the previous operation of any written law so repealed or anything duly done or suffered under any written law so repealed; or (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any written law so repealed; or (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any written law so repealed; or (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

* The provisions of this section were added to this Schedule by section 30 of the Constitution (Amendment) Act, 1962, which (*see* section 33 thereof) was deemed to have come into force on Merdeka Day.

- | SECTION | SUBJECT MATTER |
|---------|--|
| | and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing had not been passed |
| 21. | <i>(Repealed by 25 of 1963)</i> |
| 23. | <i>General provisions with respect to power given to any authority to make subsidiary legislation—</i>
Where an Ordinance or Enactment confers power on any authority to make subsidiary legislation, such subsidiary legislation may at any time be amended, varied, rescinded or revoked by the same authority and in the same manner by and in which it was made. |
| 28. | <i>Construction of provisions as to exercise of powers and duties—</i>
(1) Where a written law confers a power or imposes a duty, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as occasion requires.
(2) Where a written law confers a power or imposes a duty on the holder of an office as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by a person duly appointed to act for him. |
| 29. | <i>Power to appoint includes power to dismiss—</i>
Where a written law confers upon any person or authority a power to make appointments to any office or place, the power shall, unless the contrary intention appears, be construed as including a power to dismiss or suspend any person appointed and to appoint another person temporarily in place of any person so suspended or in place of any sick or absent holder of such office or place:

Provided that where the power of such person or authority to make such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power of dismissal shall, unless the contrary intention appears, only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority. |

- | SECTION | SUBJECT MATTER |
|---------|--|
| 30 | <p><i>Construction of enabling words—</i></p> <p>Where a written law confers power on any person to do or enforce the doing of any act or thing, all such powers shall be understood to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing.</p> |
| 32 | <p><i>Official designation to include officer executing duties—</i></p> <p>When reference is made in any written law, instrument, warrant or process of any kind made or issued by the <i>Yang-di-Pertuan Agong</i>, or a Ruler or any body or person having authority under any written law to make or to issue the same to any public officer by the term designating his office, such officer shall include the officer for the time being executing the duties of such office or any portion of such duties.</p> |
| 33 | <p><i>Power of Yang di-Pertuan Agong to provide for execution of duties of public officer during temporary absence or inability—</i></p> <p>(1) Where by or under any written law any powers are conferred or any duties are imposed upon a public officer, the <i>Yang-di-Pertuan Agong</i> or, in the case of a public officer borne on the establishment of a State, the Ruler of that State, may direct that if, during any period, owing to absence or inability to act from illness or any other cause, such public officer is unable to exercise the powers or perform the duties of his office in any place under his jurisdiction or control, such powers shall be had and may be exercised and such duties shall be performed in such place by a person named by, or by a public officer holding the office designated by the <i>Yang di-Pertuan Agong</i> or Ruler, as the case may be; and thereupon such person or public officer, during any period as aforesaid, shall have and may exercise the powers and shall perform the duties aforesaid subject to such conditions, exceptions and qualifications as the <i>Yang di-Pertuan Agong</i> or Ruler may direct.</p> <p>(2) Without prejudice to the provisions of sub-section (1), when a substantive holder of any office is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively in his place.</p> |

SECTION	SUBJECT MATTER
35	<i>(Repealed by 25 of 1963)</i>
36	<p><i>Computation of time—</i></p> <p>In computing time for the purposes of any written law, unless the contrary intention appears—</p> <p>(a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;</p> <p>(b) if the last day of the period is a weekly holiday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day not being an excluded day;</p> <p>(c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then, if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards, not being an excluded day;</p> <p>(d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six-days, excluded days shall not be reckoned in the computation of the time.</p>
38	<p><i>Provision when no time prescribed—</i></p> <p>Where no time is prescribed or allowed within which anything shall be done, such thing shall be done with all convenient speed and as often as the prescribed occasion arises.</p>
40A	<p><i>Solicitor-General to exercise powers of Attorney-General—</i></p> <p>(1) Unless in any written law it is otherwise expressly provided, the Solicitor-General may perform any of the duties and may exercise any of the powers of the Attorney-General.</p> <p>(2) Where the <i>Yang di-Pertuan Agong</i> or any other person has lawfully delegated his powers to the Attorney General such delegation shall, unless otherwise expressly provided, be deemed to be delegation of powers to both the Attorney-General and the Solicitor-General.</p>

SECTION	SUBJECT MATTER
42	<p><i>Public officers—</i></p> <p>A reference in any written law to any public officer by the usual or common title of his office shall, if there be such an office customarily in the Federation or any State and unless the contrary intention appears, be read and construed as referring to the person for the time being holding or carrying out the duties of that office in the Federation or State, as the case may be.</p>
44	<p><i>Construction of references to laws—</i></p> <p>In any written law a description or citation of a portion of another written law shall, unless a contrary intention appears, be construed as including the word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.</p>
46	<p><i>English text to prevail—</i></p> <p>In case of any conflict or discrepancy between the English text of a written law and any translation thereof, the English text shall prevail.</p>

XII

(Repealed by 25 of 1963)

XIII

PROVISIONS RELATING TO DELIMITATION OF CONSTITUENCIES

PART I

DECLARATION OF AND PRINCIPLES RELATING TO THE DELIMITATION OF CONSTITUENCIES

1. The constituencies for the election of members to the House of Representatives and the Legislative Assemblies of the States shall, until altered in accordance with the provisions of this Schedule, be those first used for elections to the House or Assembly, as the case may be, pursuant to this Constitution or the Malaysia Act.

2. The following principles shall as far as possible be taken into account in dividing any unit of review into constituencies pursuant to the provisions of Articles 116 and 117:

- (a) while having regard to the desirability of giving all electors reasonably convenient opportunities of going to the polls, constituencies ought to be delimited so that they do not cross State boundaries and regard ought to be had to the inconveniences of State constituencies crossing the boundaries of federal constituencies;
- (b) regard ought to be had to the administrative facilities available within the constituencies for the establishment of the necessary registration and polling machines;
- (c) the number of electors within each constituency ought to be approximately equal throughout the unit of review except that, having regard to the greater difficulty of reaching electors in the country districts and the other disadvantages facing rural constituencies, a measure of weightage for area ought to be given to such constituencies, to the extent that in some cases a rural constituency may contain as little as one-half of the electors of any urban constituency;
- (d) regard ought to be had to the inconveniences attendant on alterations of constituencies, and to the maintenance of local ties.

3. For the purposes of this Part the number of electors shall be taken to be as shown on the current electoral rolls.

PART II

PROCEDURE FOR DELIMITATION OF CONSTITUENCIES

4. Where the Election Commission have provisionally determined to make recommendations under Clause (2) of Article 113 affecting any constituency, they shall inform the Speaker of the House of Representatives and the Prime Minister accordingly, and shall publish in the *Gazette* and in at least one newspaper circulating in the constituency a notice stating—

- (a) the effect of their proposed recommendations, and (except in a case where they propose to recommend that no alteration be made in respect of the constituency) that a copy of their recommendations is open to inspection at a specified place within the constituency; and

- (b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of such notice,

and the Commission shall take into consideration any representations duly made in accordance with any such notice.

5. Where, on the publication of the notice under section 4 of a proposed recommendation of the Election Commission for the alteration of any constituencies, the Commission receive any representation objecting to the proposed recommendation from—

- (a) the State Government or any local authority whose area is wholly or partly comprised in the constituencies affected by the recommendation; or
 (b) a body of one hundred or more persons whose names are shown on the current electoral rolls of the constituencies in question,

the Commission shall cause a local enquiry to be held in respect of those constituencies.

6. In relation to any enquiry held under section 5 the Election Commission shall have all the powers conferred on Commissioners by the Commissions of Enquiry Ordinance, 1950.

7. Where the Election Commission revise any proposed recommendations after publishing a notice thereof under section 4, the Commission shall comply again with that section in relation to the revised recommendations, as if no earlier notice had been published:

Provided that it shall not be necessary to hold more than two local enquiries in respect of any such recommendations.

8. The Election Commission shall, having completed the procedure prescribed by this Part, submit to the Prime Minister a report on constituencies showing—

- (a) the constituencies into which they recommend that each unit of review should be divided in order to give effect to the principles set out in section 2; and
 (b) the names by which they recommend that those constituencies shall be known;

or stating that in their opinion no alteration is required to be made in order to give effect to the said principles.

9. As soon as may be after the Election Commission have submitted their report to the Prime Minister under section 8, he shall lay the report before the House of Representatives, together (except in a case where the report states that no alteration is required to be made) with the draft of an Order to be made under section 12 for giving effect, with or without modifications, to the recommendations contained in the report.

10. If any draft Order referred to in section 9 is approved by the House of Representatives by resolution supported by the votes of not less than one-half of the total number of members of that House, the Prime Minister shall submit the draft Order to the Yang di-Pertuan Agong.

11. If a motion for the approval of any draft Order referred to in section 9 is rejected by the House of Representatives, or withdrawn by leave of the House, or is not supported by the votes of not less than one-half of the total number of members of the House, the Prime Minister may, after such consultation with the Election Commission as he may consider necessary, amend the draft and lay the amended draft before the House of Representatives; and if the draft as so amended is approved by the House by a resolution supported by the votes of not less than one-half of the total number of members of the House, the Prime Minister shall submit the amended draft to the Yang di-Pertuan Agong.

12. Where the draft of an Order is submitted to the Yang di-Pertuan Agong under this Part, the Yang di-Pertuan Agong shall make an Order in the terms of the draft submitted to him, and the Order shall come into force on such date as may be specified therein:

Provided that the coming into force of any such Order shall not affect any election to the House of Representatives or a Legislative Assembly until the next dissolution of Parliament or the Assembly, as the case may be occurring on or after that date.

MALAYSIA ACT

(No. 26 of 1963)

(w.e.f. 16.9.1963)

PART IV

TRANSITIONAL AND TEMPORARY

CHAPTER I

GENERAL

73. (1) Subject to the following provisions of this Part of this Act and to any law passed or made on or after Malaysia Day, all present laws

shall, on and after Malaysia Day, have effect according to their tenor, and be construed as if this Act had not been passed:

Provided that references to the Federation (except in relation to a time before Malaysia Day) shall be construed as references to Malaysia, and expressions importing such a reference shall be construed accordingly.

(2) Any present law of the Federation passed or made on or after the day this Act is passed shall extend to any part of Malaysia to which it is expressed to extend; but save as aforesaid no present law of the Federation shall extend to any of the Borneo States or to Singapore, unless or until it is so extended by a law passed or made as aforesaid.

(3) Subject to the following provisions of this Part, the present laws of the Borneo States and of Singapore shall, on and after Malaysia Day, be treated as federal laws in so far as they are laws which could not be passed after Malaysia Day by the State Legislature, and otherwise as State laws.

(4) This section shall not validate or give effect to any provision contained in the present law of the Federation which is inconsistent with the Constitution, or any provision of present law which is invalid for reasons other than inconsistency with the Constitution.

(5) In this Part of this Act "present laws" means the laws of the Federation, of each of the Borneo States, and of Singapore passed or made before Malaysia Day, but does not include the Constitution of the Federation or any of those States or this Act.

74. (1) Subject to the provisions of this section the Yang di-Pertuan Agong may by order make such modifications as appear to him necessary or expedient in consequence of the passing of this Act in any present law relating to matters about which Parliament has power to make laws.

(2) Subject to sub-section (3), the power to make orders under sub-section (1) shall include power to extend to a Borneo State or to Singapore any present law of the Federation about any such matter, or to declare to be federal law any present law about any such matter; but except in consequence of the extension to a State of a present law of the Federation, no such order shall modify any State law.

(3) An order under sub-section (1) shall not, without the concurrence of the Governor, make as respects any State any provision which in an Act of Parliament could not be made or could not come into force without the agreement (however expressed) of a State authority, nor

extend to the State any law relating to matters about which the Legislature of the State has power to make laws, nor declare any present law of the State to be federal law, nor modify any State law.

(4) In any present law of a Borneo State or of Singapore which is to be treated as State law the Yang di-Pertuan Agong may by order make [in addition to any modifications made under sub-section (1)], such modifications as may be requested by the Governor and appear to him to be necessary or expedient in consequence of the passing of this Act.

(5) Any Act of Parliament or other law passed for the Federation before Malaysia Day which in the States of Malaya has effect as State law may by order of the Yang di-Pertuan Agong be extended to a Borneo State or Singapore, with or without modification, so as to have effect as State law in that State; but no law extended to a State under this sub-section without the concurrence of the Governor shall come into operation in the State until adopted by an enactment of the Legislature.

(6) Any provision made by an order under this section with respect to any law may be amended or repealed in like manner as that law.

(7) Orders under this section may be made at any time after the passing of this Act, and references to the Governor of a State shall be construed accordingly; and as respects the Federation orders under this section may be made to have effect before Malaysia Day.

(8) Any power to make orders under this section shall continue until the end of August, 1965, and thereafter till Parliament otherwise provides.

(9) Any order under sub-section (1) shall be laid before each House of Parliament; and if either House, at or before the second meeting begun after the order is laid before it, resolves that the order or any provision in it be annulled, the order or that provision of it shall cease to have effect, but without prejudice to anything previously done thereunder.

(10) In this section "modification" includes amendment, adaptation and repeal, and any power under this section to make modifications includes power to provide for savings and other transitional provisions.

75. (1) Subject to sections 78 and 79, any land which on Malaysia Day is vested in any of the Borneo States or in the State of Singapore, and was on the preceding day occupied or used by the government of the United Kingdom or of the State, or by any public authority other than the government of the State, for purposes which on Malaysia Day become federal purposes, shall on and after that day be occupied, used, controlled and managed by the Federal Government or, as the case may be, the said

public authority, so long as it is required for federal purposes; and that land—

- (a) shall not be disposed of or used for any purposes other than federal purposes without the consent of the Federal Government; and
- (b) shall not by virtue of this sub-section be used for federal purposes different from the purposes for which it was used immediately before Malaysia Day without the consent of the government of the State and, where it ceases to be used for those purposes and that consent is not given, shall be offered to the State accordingly.

(2) For the purposes of sub-section (1) "federal purposes" includes the provision of government quarters for the holders of federal office or employment; but that sub-section shall not apply to any land by reason of its having been used by any government for providing government quarters other than those regarded by that government as institutional quarters.

(3) Property and assets other than land which immediately before Malaysia Day were used by the government of a Borneo State or of Singapore in maintaining government services shall be apportioned between the Federation and the State with regard to the needs of the Federal and State governments respectively to have the use of the property and assets for Federal or State services, and (subject to any agreement to the contrary between the governments concerned) a corresponding apportionment as at that date shall be made of other assets of the State (but not including land) and of the burden, as between the Federation and the State, of any financial liabilities of the State (including future debt charges in respect of those liabilities); and there shall be made all such transfers and payments as may be necessary to give effect to any apportionment under this sub-section.

(4) In this section references to the government of a State include the government of the territories comprised therein before Malaysia Day.

76. (1) All rights, liabilities and obligations relating to any matter which was immediately before Malaysia Day the responsibility of the government of a Borneo State or of Singapore, but which on that day becomes the responsibility of the Federal Government, shall on that day devolve upon the Federation, unless otherwise agreed between the Federal Government and the government of the State.

(2) This section does not apply to any rights, liabilities or obligations in relation to which section 75 has effect, nor does it have effect to transfer any person from service under the State to service under the Federation or otherwise affect any rights, liabilities or obligations arising from such service or from any contract of employment; but, subject to that, in this section rights, liabilities and obligations include rights, liabilities and obligations arising from contract or otherwise.

(3) The Attorney-General shall on the application of any party interested in any legal proceedings, other than proceedings between the Federation and a State, certify whether any right, liability or obligation is by virtue of this section a right, liability or obligation of the Federation or of a State named in the certificate, and any such certificate shall for the purposes of those proceedings be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

(4) In this section references to the government of a State include the government of the territories comprised therein before Malaysia Day.

77. (1) Subject to the provisions of this section, neither any transfer or surrender on Malaysia Day of jurisdiction in relation to a Borneo State or Singapore, nor anything contained in this Act, shall affect any person's liability to be prosecuted and punished for offences committed before Malaysia Day, or any proceedings brought or sentence imposed before that day in respect of any offence; but the powers mentioned in Article 42 of the Constitution (which relates to pardons, etc.) shall in the Borneo States and Singapore extend to offences committed and sentences imposed before Malaysia Day.

(2) In any legal proceedings pending on Malaysia Day (whether civil or criminal) there shall be made such substitution of one party for another as may be necessary to take account of any transfer or surrender on that day of jurisdiction or executive authority in a Borneo State or Singapore or of any transfer under this Act of rights, liabilities or obligations.

(3) Any appeal brought on or after Malaysia Day against a decision given in any legal proceedings before that day may be brought by or against the party who should, by virtue of sub-section (2), have been the appellant or respondent if the proceedings had continued after Malaysia Day; but if it is not so brought, sub-section (2) shall apply to it as it applies to proceedings pending on Malaysia Day.

(4) Sub-section (3) shall apply with the necessary modifications to proceedings for leave to appeal as it applies to an appeal.

(5) The Attorney-General shall, on the application of a party to any proceedings, certify whether any, and if so what, substitution of one party for another is to be made by virtue of sub-sections (2) to (4) in those proceedings or for the purpose of any appeal arising out of them, and any such certificate shall for purposes of the proceedings or any such appeal, be final and binding on all courts, but shall not operate to prejudice the rights and obligations of the Federation and any State as between themselves.

78. (1) Where in a Borneo State or in Singapore the State government on Malaysia Day retains responsibility for any matter by reason—

- (a) of the matter being included for a limited period in the Concurrent List; or
- (b) of the making of an order under Article 95C of the Constitution empowering the State Legislature to pass laws about the matter;

but the matter would otherwise have become on Malaysia Day the responsibility of the Federal Government, then (subject to federal law) on that matter becoming the responsibility of the Federal Government sections 75 and 76 and sub-sections (2) to (5) of section 77 shall apply in connection with the transfer of responsibility for that matter with the substitution of references to the day on which it does so for the references to Malaysia Day.

(2) Where in a Borneo State or in Singapore the State government retains responsibility for any matter under a present law of the State continued in force under section 73, but the matter would otherwise have become on that day the responsibility of the Federal Government, then—

- (a) the purposes of that law shall not be treated as federal purposes within the meaning of section 75 so long as the State Government retains the responsibility thereunder; and
- (b) sub-section (1) shall apply as it applies where the State government retains responsibility for the reasons there mentioned.

79. (1) There shall on Malaysia Day vest in the Federal Lands Commissioner (without payment) any land in Singapore which is then leased or agreed to be leased by or on behalf of the State to the Services'

Lands Board for the purposes specified in section 72 of the Singapore (Constitution) Order in Council, 1958.

(2) Land vested in the Federal Lands Commissioner by sub-section (1) shall vest in him for the term for which it was leased or agreed to be leased to the Services' Lands Board for the purposes there mentioned, and on the terms and conditions on which it was so leased or agreed to be leased, except that—

- (a) the Federal Lands Commissioner shall take the place of the Services' Lands Board; and
- (b) a condition that, subject to sub-section (3) of this section, the land shall be used by the Federal Government for defence purposes (including the purpose of implementing any agreement with the government of the United Kingdom relating to defence) shall take the place of any condition that the land shall be used for the purposes mentioned in sub-section (1).

(3) For the purpose of implementing any such agreement as aforesaid, the Federal Government may permit any authority of the government of the United Kingdom to occupy, use, control or damage for defence purposes any land which is to be used for those purposes under sub-section (2) of this section, or sub-section (1) of section 75; and where land is vested in the Federal Lands Commissioner under this section, the Federal Lands Commissioner on the direction of the Federal Government may from time to time grant leases of the land for defence purposes for any term not exceeding at any time thirty years to any person for, and on behalf of the government of the United Kingdom.

(4) Sub-section (1) of section 75 shall not apply to land in Singapore which immediately before Malaysia Day is occupied for defence purposes under a temporary occupation licence.

(5) In this section "the Services' Lands Board" means the corporation incorporated by that name under the Services' Lands Board Ordinance, 1959, of Singapore (No. 8 of 1959).

80. (1) As regards Sabah and Sarawak Clause (2) of Article 97 and Articles 109, 110 and 112C of the Constitution shall not have effect until the year 1964.

(2) Until the year 1964, all revenues accruing or collected in a Borneo State which would apart from this provision be revenues of the

Federation shall be revenues of the State, and the burden of all expenditure in respect of federal services in the State (except to the extent that it is incurred by the Federation as additional expenditure) shall be borne by the State.

CHAPTER II STATE OFFICERS

81. (1) Article 147 of the Constitution shall have effect as if any reference to the public services included the public services before Malaysia Day in the territories comprised in a Borneo State or in Singapore.

(2) In relation to awards granted to or in respect of persons who were members of those services that Article shall have effect with the substitution for references to Merdeka Day and to the thirtieth day of August 1957, of references to Malaysia Day and the day before Malaysia Day.

(3) For the purposes of that Article as it applies in relation to the former public services in Sarawak, there shall be treated as having had the force of law on the day before Malaysia Day, any administrative regulations providing for the payment of pensions, gratuities or allowances and any resolution of Council Negri relating to the amount of any pension or allowance then in payment.

82. (1) No pension, gratuity or other like allowance becoming payable by the Federal Government to or in respect of a serving member of the public service of a Borneo State on or by reference to his ceasing by death, retirement or otherwise to be a member of that service, shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto, unless the disciplinary authority concurs in the exercise of the discretion.

(2) In this section "serving member" means a member serving as such on Malaysia Day (including a member then on leave pending retirement), and "disciplinary authority" means whichever Commission to which Part X of the Constitution applies or similar disciplinary authority of the State is empowered to exercise disciplinary control in respect of the member in question immediately before he ceases to be a member.

83. (1) Where a decision of the disciplinary authority given with respect to a compensable member of the public service of a Borneo State

adversely affects his compensation, or adversely affects any pension, gratuity or other like allowance which is, or but for the decision would be, actually or potentially payable to or in respect of him by the Federal Government, then subject to the provisions of this section he may give notice to the disciplinary authority complaining of the decision and requiring it to be referred to an Appeals Board.

(2) Where a decision of a disciplinary authority is referred to an Appeals Board under this section, and the Board consider the decision or its effect was unduly harsh to the complainant having regard to the facts as found by the disciplinary authority and to all the circumstances, the Board shall do declare and shall state how they consider the effect of the decision ought fairly to be adjusted as regards compensation or as regards any such pension, gratuity or allowance as aforesaid; and in any other case the Board shall confirm the decision.

(3) Where under sub-section (2) an Appeals Board declare a decision or its effect to have been unduly harsh, the law relating to the compensation or to the pension, gratuity or allowance shall have effect as if it provided for the making of the adjustments (if any) proposed by the Appeals Board or such other adjustments not less favourable to the person entitled thereto as may be determined by or on behalf of the government liable after consultation with the disciplinary authority.

(4) An Appeals Board under this section shall consist of one member nominated by the Chief Minister of the State, one member nominated by the president or other head of such association representing public officers or such professional body as the complainant may select, and a chairman nominated by the other two members or, if they do not agree on a nomination, by the Chief Justice of the High Court in Borneo.

(5) An Appeals Board under this section may deal with the reference to them without a hearing; but shall give the complainant and the disciplinary authority an opportunity to make representations and shall have a hearing if either of them requires.

(6) At any hearing the complainant and the disciplinary authority shall have a right to be legally represented, and the disciplinary authority, if not legally represented, may be represented by any member or officer of the authority.

(7) This section applies to any concurrence of the disciplinary authority under section 82, but save as aforesaid applies only to decisions taken by the disciplinary authority in the exercise of its disciplinary control over members of the public service of the State; and in relation to

a decision of the disciplinary authority given on appeal this section shall apply as if that decision and the decision appealed against together constituted the decision of the disciplinary authority.

(8) The personal representatives of a deceased person shall be entitled to require to be referred to an Appeals Board any decision which he might, if alive, have required to be so referred, and shall be entitled to proceed with any reference instituted by him, and references in this section to the complainant shall be construed accordingly.

(9) The Chief Ministers of the Borneo States acting jointly may make rules for giving effect to this section, and for regulating references thereunder; and the rules shall include provision—

- (a) for ensuring that any compensable member of the State services of a Borneo State or, if he is dead, his personal representative (if any) is given due notice of any decision which he is entitled to have referred to an Appeals Board, and is informed of his rights in that behalf; and
- (b) for prescribing the time and manner in which notice is to be given to a disciplinary authority complaining of a decision and requiring it to be referred to an Appeals Board.

(10) In this section "compensation" means in relation to Sabah and Sarawak respectively compensation under the North Borneo (Compensation and Retiring Benefits) Order in Council, 1963, and compensation under the Sarawak (Compensation and the Retiring Benefits) Order in Council, 1963, "compensable member" means a member who for purposes of compensation is an entitled officer within the meaning of the Order relating thereto; and "disciplinary authority" means a Commission to which Part X of the Constitution applies or any similar disciplinary authority in the State.

84. (1) Any arrangements made by the Federal Government for replacing in the public service of the Federation in a Borneo State compensable members of the State service (seconded to the Federal service) by local candidates for appointment or promotion shall be such—

- (a) that it is for the Service Commission—
 - (i) to decide whether suitably qualified local candidates are available; and

- (ii) to select those members of the State service whose secondment is to be terminated; and
- (b) that, where any compensable member of the State service was seconded to the Federal service on the post in which he was serving becoming a post in the Federal service, he shall not be selected for the termination of his secondment within his expected period of employment, unless the Service Commission after consultation with the State government is satisfied that suitable employment in the State service will be available for him during the remainder of that period.

(2) In paragraph (b) of sub-section (1) the reference to a compensable member's expected period of employment is a reference to the minimum period during which he is to be employed in the State service as notified or last notified to him by or on behalf of the State government, but does not include a period so notified after Malaysia Day without the approval of the Federal Government.

(3) In this section "compensable member" has the same meaning as in section 83; "the Service Commission" means such of the Commissions to which Part X of the Constitution applies as has jurisdiction over the relevant branch of the public service; and the reference in sub-section (2) to the State government includes the government of the territories comprised in the State before Malaysia Day.

85. (1) All persons who immediately before Malaysia Day are members of the police force in Singapore (and are not on leave pending retirement) shall on that day become members of the police force of the Federation with a corresponding rank and in a corresponding capacity.

(2) A person who becomes a member of the police force of the Federation under this section—

- (a) shall be employed on terms and conditions not less favourable than those applicable to him immediately before Malaysia Day;
- (b) unless and until he elects to the contrary,—
 - (i) shall not be liable to be transferred without his consent to a post outside Singapore; but
 - (ii) shall not be eligible for promotion to such a post.

86. (1) Where in consequence of the passing of this Act a person is seconded to the public service of the Federation by a provision contained in the Constitution of a Borneo State or of Singapore, the effect of the secondment shall be the same as that of a secondment under Article 134 of the Constitution.

(2) A person who in consequence of the passing of this Act becomes the holder of any office or employment under the Federation may, until Parliament otherwise provides, perform his functions without taking any oath required in the case of other holders of that office or employment, if he becomes the holder of it on Malaysia Day under any provision of this Part, or if (by secondment or otherwise) he becomes the holder of it on or after that day by reason of any transfer or responsibility to the Federal Government from a government under which he held a corresponding office or employment.

CHAPTER III

THE COURTS AND THE JUDICIARY

87. (1) Until other provision is made by or under federal law, the appellate jurisdiction of the Federal Court and the jurisdiction of the High Courts, and (so far as may be) the practice and procedure to be followed by those Courts in the exercise of that jurisdiction, shall, subject to the provisions of this section, be the same as that exercised and followed in the like case immediately before Malaysia Day in the Supreme Court of the Federation, the Supreme Court of Sarawak, North Borneo and Brunei or the Supreme Court of Singapore, as the case may be:

Provided that this sub-section shall not confer on any court any jurisdiction which immediately before Malaysia Day was derived from any law of the State of Brunei.

(2) Until other provision is made by or under federal law; the practice and procedure to be followed by the Federal Court in the exercise of its original and consultative jurisdiction, and the practice and procedure of other courts in connection therewith, shall, subject to the provisions of this section, be the same as nearly as may be as that followed in the like case immediately before Malaysia Day in and in connection with the exercise of the corresponding jurisdiction by the Supreme Court of the Federation.

(3) Until other provision is made by or under federal law—

- (a) the Federal Court and each of the High Courts shall adopt and use as its seal such seal or stamp as may be approved by the Lord President, in the case of the Federal Court, or the Chief Justice, in the case of a High Court; and
- (b) there shall be in and for the purposes of those courts the like offices as there were immediately before Malaysia Day in the case of the said Supreme Courts, and the holders of those offices shall discharge the functions belonging thereto with such modifications as are required to give effect to sub-sections (1) and (2).

(4) Sub-sections (1) to (3) shall not affect the powers conferred by section 74, but subject to any order under that section and to the following provisions of this section all present laws affecting the jurisdiction, practice or procedure of the said Supreme Courts shall apply to the Federal Court and the High Courts with such modifications as may be necessary to give effect to sub-sections (1) to (3).

(5) Sub-sections (1) to (4) shall not have effect so as to prevent the amendment or revocation of any rules of court in force immediately before Malaysia Day, or the making of new rules of court, under the powers conferred by any present law as applied by sub-section (4); but, until other provision is made by federal law, the powers so conferred as regards the practice and procedure of the Federal Court and the practice and procedure of other courts in matters incidental to the exercise of any jurisdiction of the Federal Court, shall be exercised by the Lord President after consultation with the Chief Justices of the High Courts.

(6) Until other provision is made by or under federal law, the present law relating to appeal to the Yang di-Pertuan Agong from the Court of Appeal of the Federation, and the practice and procedure followed in connection therewith immediately before Malaysia Day, shall, subject to any order under section 74 and to any new rules of court, apply with any necessary modifications for the purpose of appeals to the Yang di-Pertuan Agong from the Federal Court.

(7) For the purposes of this section the right of audience in a court shall be deemed to be a matter of the practice of the court; but in the Federal Court any advocate of a High Court shall have that right, if and so long as it depends of this section.

(8) For the purposes of this section the Court of Criminal Appeal in Singapore shall be treated as having been a division of the Court of Appeal.

(9) This section has effect subject to Article 161B of the Constitution.

88. (1) Subject to any order under section 74 any subordinate court exercising jurisdiction and functions immediately before Malaysia Day in the territories comprised in a Borneo State or in the State of Singapore shall, until federal law otherwise provides, continue to exercise them.

(2) The validity on or after Malaysia Day of anything done before that day in or in connection with or with a view to any proceedings in a court in those territories shall not be affected by the court becoming on that day a court of the Federation, but anything so done shall be of the like effect as a thing done by or in relation to the court in the exercise of its jurisdiction as a court of the Federation.

(3) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the Court of Appeal of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore, or the Court of Criminal Appeal in Singapore, shall on and after that day be of the like effect as if the court were one and the same court with the Federal Court.

(4) Anything done before Malaysia Day in or in connection with or with a view to any proceedings in the High Court of the Federation, or of Sarawak, North Borneo and Brunei, or of Singapore shall on and after that day be of the like effect as if those High Courts were respectively one and the same court with the High Court in Malaya, the High Court in Borneo and the High Court in Singapore.

(5) Where in any court mentioned in sub-section (3) or (4) the hearing of a case has been begun but the case has not finally been disposed of before Malaysia Day, and any judge sitting to deal with the case does not on Malaysia Day become a judge of the court in which the further proceedings in the case are to be had under that sub-section, he shall in relation to the case have the same powers as if he had for the purpose thereof been duly appointed to act as judge of that court.

(6) References in this section to things done in connection with proceedings in a court shall include appeals from the court or a judge thereof, and shall apply to appeals to the Yong di-Pertuan Agong; and any appeal to Her Britannic Majesty from the Supreme Court of Sarawak, North Borneo and Brunei or from the Supreme Court of Singapore or Court of Criminal Appeal in Singapore, and anything done

with a view to such an appeal, shall for purposes of this section be treated as an appeal to the Yang di-Pertuan Agong or, as the case may be, as done with a view to such an appeal.

(7) Without prejudice to the generality of sub-sections (3) and (4), all records of the courts there mentioned which are in existence immediately before Malaysia Day shall on and after that day be held, continued and used as if they were records of the corresponding courts there mentioned which are established on Malaysia Day; and any such record, in so far as it is on that day incomplete with respect to the period before that day, shall be made up as if this Act had not been passed.

(8) Any process, pleading, recognizance or other document may be amended to conform with its operation under this section, but shall have effect in accordance with this section whether or not it is so amended.

89. (1) Subject to the provisions of this section, on Malaysia Day the persons holding office immediately before that day as judges of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei and of the Supreme Court of Singapore shall become judges of the Federal Court and of the High Courts as follows:

- (a) the Chief Justice of the Federation shall become Lord President of the Federal Court, the Chief Justice of Sarawak, North Borneo and Brunei shall become Chief Justice of the High Court in Borneo and the Chief Justice of Singapore shall become Chief Justice of the High Court in Singapore;
- (b) the judges of the Court of Appeal of the Federation shall become judges of the Federal Court;
- (c) the other judges shall become respectively judges of the High Courts in Malaya, in Borneo and in Singapore according to the place in which they were judges before Malaysia Day.

(2) The first Chief Justice of the High Court in Malaya shall be appointed from among the persons holding office immediately before Malaysia Day as judges of the Supreme Court of the Federation, and if a judge of the Court of Appeal is appointed, sub-section (1) shall have effect subject to that appointment and to any appointment made in consequence of it.

(3) In connection with any such appointment as is mentioned in sub-section (2), any requirement of Article 122B of the Constitution as to

consultation with the Lord President of the Federal Court or a Chief Justice may be satisfied by consultation with the person designated or appointed under this section to hold that office.

(4) The term of office under sub-section (1) of a judge who immediately before Malaysia Day held his then office for a fixed term shall not expire before the end of that term; and, subject to that, the term of office under sub-section (1) of any judge of the Supreme Court of Sarawak, North Borneo and Brunei who becomes a judge of the High Court in Borneo under that sub-section shall be such fixed period, whether or not expiring after he attains the age of sixty-five, as may have been notified to him before Malaysia Day by or with the authority of the Federal Government.

(5) Subject to sub-section (4) a person becoming judge of the Federal Court or a High Court under sub-section (1) (including the Lord President or a Chief Justice) shall hold that office on terms and conditions not less favourable than those applicable to him in the office he holds immediately before Malaysia Day.

(6) A person becoming judge of a High Court under sub-section (1) shall not be transferred to another High Court under Article 122C of the Constitution except with his consent.

90. (1) In Article 123 of the Constitution, in relation to a period before Malaysia Day—

- (a) the reference in paragraph (b) to an advocate of the Federal Court and High Courts or of any of those courts shall be construed as a reference to an advocate of the Supreme Court of the Federation, of the Supreme Court of Sarawak, North Borneo and Brunei or of the Supreme Court of Singapore; and
- (b) the reference to the legal service of a State shall include a reference to the judicial and legal branch of the public service of the Government of North Borneo, Sarawak or Singapore.

(2) A person who immediately before Merdeka Day was a member of the judicial and legal service of the Federation, or immediately before Malaysia Day was a member of the judicial and legal branch of the public service of North Borneo, Sarawak or Singapore, and who, if he were a citizen, would be qualified for appointment as a judge of the Federal Court or a High Court, shall be so qualified notwithstanding that he is not a citizen.

(3) A person may be appointed to be a judge of the Federal Court or of a High Court notwithstanding that he is not qualified for appointment under Article 123 of the Constitution if—

- (a) the appointment is made within ten years of Merdeka Day or, in the case of an appointment to the High Court in Borneo or in Singapore, within ten years of Malaysia Day; and
- (b) he is and has been for not less than five years qualified to practise as an advocate of a court in any Commonwealth country having unlimited jurisdiction in civil or criminal matters.

(4) A person appointed a judge by virtue of sub-section (3) may be appointed for a fixed period, whether or not expiring after he attains the age of sixty-five.

(5) Where a person who is not a citizen is required by the Constitution to take an oath on becoming Lord President of the Federal Court or on becoming a judge of the Federal Court or of a High Court, the words "and allegiance" shall be omitted from the oath.

91. Where a judge of the Supreme Court of Sarawak, North Borneo and Brunei, or a compensable member of the State service of a Borneo State (within the meaning of section 83) becomes a judge of the Federal Court or of a High Court, then—

- (a) for the purposes of any compensation (within the meaning of that section), or pension, gratuity or other like allowance, payable to or in respect of him, he shall be treated as if he had while serving as a judge of the Federal Court or of a High Court remained a member of the same service as immediately before Malaysia Day; and
- (b) no such pension, gratuity or allowance becoming payable by the Federal Government on or by reference to his ceasing (whether by death or retirement) to be such a judge shall be withheld, suspended or reduced in the exercise of any discretion conferred by the law relating thereto.

92. (1) Subject to sub-sections (2) and (3), all persons who immediately before Malaysia Day hold any office in the Supreme Court of the Federation (not being judges of the Court) and, if seconded to the public service of the Federation, all persons who immediately before that day hold any office in the Supreme Court of Sarawak, North Borneo and Brunei or in the Supreme Court of Singapore or any judicial office in the

territories comprised in a Borneo State or Singapore before Malaysia Day (not being judges of the Supreme Court) shall on that day continue in the like offices, subject to any appointment of any of them to another office.

(2) Sub-section (1) shall not apply to offices in the Court of Appeal in those Supreme Courts; but a person who under that sub-section becomes on Malaysia Day an officer of a High Court shall, unless or until other provision is made under this Part or by or under federal law, discharge in that office the like functions, as nearly as may be, in relation to the Federal Court as immediately before that day he discharged in any office held by him in a Court of Appeal, as if that office had immediately before Malaysia Day been amalgamated with his office in the High Court.

(3) This section shall apply to an office in a Supreme Court as such as if it had been an office in the High Court.

CHAPTER IV

PARLIAMENT AND LEGISLATIVE ASSEMBLIES

93. (1) In each of the Borneo States and in Singapore the Governor shall, without the necessity for any notice under section 1 of the Seventh Schedule to the Constitution, require the Legislative Assembly to elect Senators as soon as may be after Malaysia Day.

(2) The term of office of a Senator elected at the first election in each of the States mentioned in sub-section (1) shall be the period ending at the end of August, 1968 or, in the case of the Senator who receives the fewer votes, the period ending at the end of August, 1965; and if at that election the two Senators elected each receive the same number of votes, the Senator who has the longer term of office shall be determined by lot.

(3) Of the six Senators first appointed by virtue of section 8 of this Act, three shall be appointed for a term ending at the end of August, 1968, and three for a term ending at the end of August, 1965.

94. (1) In the Borneo States there shall be a period of indirect elections to the House of Representatives and to the Legislative Assembly; and Part VIII of the Constitution shall not have effect for the purpose of any election during that period to that House or Assembly.

(2) The period of indirect elections in any State shall be, for elections to the House of Representatives, the period up to the first dissolution of Parliament occurring after the end of August, 1968 or, for elections to the

Legislative Assembly, the first dissolution of that Assembly so occurring:

Provided that with the concurrence of the Governor of a State the Yang di-Pertuan Agong may by order direct that this sub-section shall have effect in relation to the State with the substitution of an earlier date for the end of August, 1968.

(3) During the period of indirect elections in a State the members of the House of Representatives from the State shall be elected by the Legislative Assembly in accordance with such procedure as may be prescribed by order of the Governor made with the concurrence of the Yang di-Pertuan Agong; and the order may either require the elections to be made from among members of the Assembly or permit others to be elected.

(4) During the period of indirect elections in a State elected members of the Legislative Assembly shall be elected as may be provided by federal or State law.

(5) In each of the Borneo States the Legislative Assembly shall, without any writ or other notification, proceed to the first election of members of the House of Representatives as soon as may be after Malaysia Day.

(6) If any question arises whether a member of the House of Representatives from a Borneo State has been duly elected during the period of indirect elections in the State, the decision of the House shall be taken and shall be final.

95. (1) Subject to sub-section (2), Part VIII of the Constitution shall not have effect for the purpose of elections of members of the House of Representatives from Singapore until the second general election to that House held after Malaysia Day, and so long as this sub-section applies to those elections those members shall, subject to sub-section (2), be elected as may be provided by any law passed by the Legislature of Singapore with the concurrence of the Yang di-Pertuan Agong (including any law so passed before Malaysia Day), and the period for which they are elected should be the period until the second dissolution of Parliament after Malaysia Day.

(2) Except as regards the first elections of members of the House of Representatives from Singapore, Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which sub-section (1) applies, but not so as to prevent use being made of electoral rolls in force immediately before Malaysia Day pending the

revision of those rolls or the preparation of new ones according to law; and except as regards the said first elections that sub-section shall have effect subject to federal law (including any federal law applied in relation to those elections by an order under section 74 of this Act).

(3) Subject to sub-section (5), Part VIII of the Constitution shall also not have effect for the purpose of elections to the Legislative Assembly of Singapore until the first general election to that Assembly held after such date (not being earlier than five years from Malaysia Day) as may be provided by Act of Parliament passed with the concurrence of the Governor.

(4) So long as sub-section (3) applies to elections to the Legislative Assembly of Singapore, the members of the Assembly shall, subject to sub-section (5), be elected as may be provided by federal or State law; and subject to any such law, on sub-section (3) ceasing to apply the constituencies for those elections as then existing shall continue until altered on a review under Article 113 of the Constitution, and shall be reviewed when the federal constituencies are reviewed in accordance with that Article.

(5) Article 119 of the Constitution, together with Article 30A, shall apply in relation to elections to which sub-section (3) applies, but not so as to prevent use being made for the purpose of those elections of electoral rolls in force immediately before Malaysia Day, pending the revision of those rolls or the preparation of new ones according to law; and so long as sub-section (3) applies to elections to the Legislative Assembly. Article 119 shall not invalidate or prohibit any restrictions on a person's right to vote at those elections which may be imposed by State law by reason of his failure to vote at such an election or by reason of any act or conduct showing adherence to a country or territory outside Malaysia.

96. (1) The constituencies in each of the Borneo States for the first elections to the House of Representatives or the Legislative Assembly after the end of the period of indirect elections, and the constituencies in Singapore for the first elections to the House of Representatives to which sub-section (1) of section 95 does not apply, shall be delimited by order of the Yang di-Pertuan Agong made in accordance with this section.

(2) The Election Commission, at such time as may be notified to them on behalf of the Federal Government, shall take into consideration the

division of the State into constituencies and, within such period as may be so notified, shall submit to the Prime Minister a report showing—

- (a) the constituencies into which they recommend the State should be divided in order to give effect to the principles set out in section 2 of the Thirteenth Schedule to the Constitution; and
- (b) the names by which they recommend that those constituencies should be known.

(3) In applying the said section 2 for the purpose of that report the Election Commission shall estimate the number of electors from such information as is reasonably available to them, and section 3 of the said Thirteenth Schedule (which directs the number of electors to be taken to be as shown on the current electoral rolls) shall not apply for that purpose.

(4) Before making their report to the Prime Minister on the State, the Election Commission shall publish in the *Gazette* and in at least one newspaper circulating in the State, and in any other manner they think necessary to secure that it may become generally known among persons interested, a notice stating—

- (a) the effect of their proposed recommendations, and that a copy of those recommendations is open to inspection at a specified place in each of the proposed constituencies; and
- (b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice;

and the Commission shall take into consideration any representations duly made in accordance with any such notice.

(5) As soon as may be after the Election Commission have submitted their report on the State to the Prime Minister, he shall lay the report before the House of Representatives.

(6) Together with the report there shall be laid before the House the draft of an order for giving effect with or without modifications to the recommendations contained in the report, and a draft order for that purpose shall not be submitted to the Yang di-Pertuan Agong until the House has been given the opportunity to debate the report on a motion relating to such an order.

(7) If, on such a motion, the draft order is approved by resolution of the House, it shall be submitted to the Yang di-Pertuan Agong in the form in which it is so approved.

(8) If, on such a motion, the draft order is not so approved, then unless the Prime Minister thinks fit to lay a further draft before the House (in which event this and the preceding sub-section shall apply to that draft as they apply to the draft first laid before the House), the draft order shall be submitted to the Yang di-Pertuan Agong with such modifications (if any) as the Prime Minister thinks fit having regard to the debate on the draft order.

(9) Before a draft order is submitted to the Yang di-Pertuan Agong under sub-section (8), or a further draft laid instead before the House, the Prime Minister shall have such consultation with the Election Commission as he may consider necessary.

Select Bibliography

- Barber, Noel, *The War of the Runing Dogs: How Malaya Defeated the Communist Guerillas, 1948-60.* (London, 1971).
- Barlett, Vernon, *Report From Malaya* (London, 1954).
- Barnett, A.D., *Communist Strategies in Asia: A Comparative Analysis of Governments and Parties* (New York, 1963).
- Brackman, A.C., *Southeast Asia's Second Front: The Power Struggle in the Malay Archipelago* (Singapore, 1966).
- Braddell, R.S., *The Law of the Straits Settlements: A Commentary* (2nd ed. 1931-32).
- Brimmel, J.H., *A Short History of the Malayan Communist Party* (Singapore, 1956).
- _____, *Communism in Southeast Asia: A Political Analysis* (London, 1959).
- Campbell, Arthur, *Jungle Green* (London, 1953).
- Carnell, F.G., "Communalism and Communism in Malaya," In *Pacific Affairs*, (June 1953).
- _____, "The Emergency in Malaya: Some Reflections on the First Six Years", In *World Today* (November 1954).
- Cleaveland, Norman, *Bang! Bang! in Ampang: Dredging Tin during Malaysia's 'Emergency'* (San Pedro, California, 1973).
- Clutterbuck, R.L., *Riot and Revolution in Singapore and Malaya, 1945-63* (London, 1973).

- Clutterbuck, R.L., *The Long, Long War: The Emergency in Malaya, 1948-60* (London, 1967).
- Crockett, Anthony, *Green Beret, Red Star* (London, 1954).
- Cross, John, *Red Jungle* (London, 1957).
- Darling, Sir Kenneth, *British Counter-insurgency Experience* (Canberra, Directorate of Military Training, 1965).
- Das, S.K., *Japanese Occupation and Ex-Post-Facto Legislation in Malaya* (1960).
- Donnison, F.S.V., *British Military Administration in the Far East 1943-46* (1956).
- Emerson, R., *Malaya: A Study of Direct and Indirect Rule* (1937).
- Fairbairn, Geoffrey, *Revolutionary Warfare and Communist Strategy: The Threat to Southeast Asia* (London, 1968).
- Fort Leavenworth, Ka., U.S. Army Command and General Staff College, *Counter-insurgency Case History: Malaya, 1948-60* (1965).
- Girling, J.L.S., *People's War — the Conditions and Consequences in China and Southeast Asia* (London, 1969).
- Gouldsbury, Pamela, *Jungle Nurse*, (London, 1960).
- Goh Keng Swee, *Communism in Non-Communist Asian Countries* (Singapore, 1967).
- Great Britain, Central Office of Information, Reference Division, *The Fight Against Communist Terrorism in Malaya* (London, 1951).
- Greene, T.N., ed., *The Guerilla — And How to Fight Him* (New York, 1962).
- Groves, H.E., *Comparative Constitutional Law—Cases and Materials* (Oceana; 1963).
- _____, *Constitution of Malaysia* (Malaysia Publications Ltd. and Oceana; 1964).
- Gurney, Sir Henry L.G., *Communist Banditry in Malaya: Extracts from Speeches, 1948-49*. (Kuala Lumpur, Department of Public Relations, 1950).
- Gwee Hock Ann, *The Emergency in Malaya* (Penang, 1966).
- Hanrahan, G.Z., *The Communist Struggle in Malaya* (Kuala Lumpur, 1971).
- Henniker, M.C.A., *Red Shadow over Malaya* (Edinburgh, 1955).
- Hickling, R.H., *An Introduction to the Federal Constitution* (Federation of Malaya Information Services; 1960).

- Hickling, R.H., *Malaya Constitutional Documents* (Federation of Malaya, Government Printer, 1962).
- Hillman, R.C., "Insurgent Communism: The Problem of Counter-Measures in Malaya, Vietnam and the Philippines," Ph.D. dissertation (American University, Washington, D.C., 1964).
- Hyde, Douglas, *The Roots of Guerilla Warfare: A Background Book* (London, 1968).
- Josey, Alex, *Lee Kuan Yew* (Singapore, 1968).
- _____, *Lee Kuan Yew: The Struggle for Singapore* (Singapore, 1974).
- Kaberry, P.M., *The Development of Self-Government in Malaya* (1946).
- Koh Teck-chong, "The Emergency in Johore, 1948-59," (Academic Exercise, University of Malaya, 1960).
- Komer, R.W., *The Malayan Emergency in Retrospect: Organisation of a Successful Counter-insurgency Effort* (Rand Corporation, 1972).
- Lee Kuan Yew, *The Battle for Merger* (Singapore, 1961).
- Malaya (Federation), Department of Information, *Communist Banditry in Malaya: The Emergency with a Chronology of Important Events. 6.1948-6.1951* (Kuala Lumpur, 1952).
- _____, *The Danger and Where It Lies* (Kuala Lumpur, 1957).
- Malaya, Department of Public Relations, *Anatomy of Communist Propaganda* (Kuala Lumpur, 1949).
- Malaysia, Ministry of Home Affairs, *Communism in Nanyang University* (Kuala Lumpur, 1964).
- _____, *The Communist Threat to Sarawak* (Kuala Lumpur, 1966).
- _____, *The Communist Threat to the Federation of Malaya* (Kuala Lumpur, 1959).
- _____, *The Militant Communist Threat to West Malaysia* (Kuala Lumpur, 1966).
- _____, *The Path of Violence to Absolute Power* (Kuala Lumpur, 1968).
- _____, *The Resurgence of Armed Communism in West Malaysia* (Kuala Lumpur, 1971).
- _____, *The Threat of Armed Communism in Sarawak* (Kuala Lumpur, 1972).

- Maxwell, W.G. and Gibson, W.C., *Treaties and Engagements Affecting the Malaya States and Borneo* (1942).
- McLane, C.B., *Soviet Strategies in Southeast Asia: An Exploration of Eastern Policy under Lenin and Stalin* (New Jersey, 1966).
- McVey, R.T., *The Calcutta Conference and the Southeast Asian Uprisings* (Ithaca, 1958).
- Miers, Richard, *Shoot to Kill* (London, 1959).
- Miller, Harry, *Jungle War in Malaya: The Campaign Against Communism* (London, 1972).
- _____, *Menace in Malaya* (London, 1954).
- Mills, L.A., *British Rule in Eastern Asia* (1942).
- Moran, J.W.G., *Spearhead in Malaya*, London (1960).
- _____, *The Camps Across the River: Further Recollections of An Officer in the Malayan Police Force* (London, 1961).
- Musa Ahmad, *For the Complete National Independence of Malaya* (Canada, 1961).
- O'Ballance, Edgar, *Malaya: The Communist Insurgent War, 1948-60* (London, 1966).
- Paget, Julian, *Counter-insurgency Campaign*. (London, 1967).
- Park, Bum-Joo (Lee), "The British Experience of Counter-insurgency in Malaya: The Emergency, 1948-60", Ph.D. dissertation (The American University, Washington, D.C., 1965).
- Purcell, Victor, *Malaya: Communist or Free?* (London, 1954).
- Pye, L.W., *Guerilla Communism in Malaya: Its Social and Political Meaning* (New Jersey, 1956).
- _____, *Lessons from the Malayan Struggle against Communism* (Cambridge, Massachusetts, 1957).
- Scalapino, R.A., *The Communist Revolution in Asia: Tactics, Goals and Achievement* (New Jersey, 1965).
- Sheridan, L.A., *Federation of Malaya Constitution* (Oceana, 1961).
- _____, *Malaya and Singapore. The Borneo Territories—The Development of Their Laws and Constitutions* (Stevens, 1961).
- Short, Anthony, *The Communist Insurrection in Malaya, 1948-60*. (London, 1975).
- Sin Chew Jit Poh, "A Brief History of the Malayan Emergency" (31 July 1960).

- Sin Chew Jit Poh, "The Main Events in the Twelve Years of the Emergency" (31 July 1960).
- Singapore, Commissioner of Police, *The Emergency in Singapore* (Singapore, 1949).
- Smith, S.A. De., *The New Commonwealth and Its Constitutions* (Stevens, 1964).
- Stenson, M.R., *Industrial Conflict in Malaya: Prelude to the Communist Revolt of 1948* (London, 1970).
- _____, *Repression and Revolt: The Origins of the 1948 Communist Insurrection in Malaya and Singapore* (Athens, Ohio, 1969).
- _____, *The 1948 Communist Revolt in Malaya: A Note on Historical Sources and Interpretation*. (Singapore, 1971).
- Tengku Abdul Rahman Putera bin Sultan Abdul-Hamid, *Report on Baling: Chief Minister's Broadcast (30.12.1955)* (Kuala Lumpur, 1956).
- Thompson, Robert, *Defeating Communist Insurgency; Experiences from Malaya and Vietnam* (London, 1966).
- Thompson, V.M., *The Left-wing in Southeast Asia* (New York, 1950).
- Too, C.C., *Defeating Communism in Malaya*. (Fort Leavenworth, Ka., U.S. Army Command and General Staff College, 1967).

Periodical Literature

- Bindsell, R., "A Comparative Study of the Legal Position of Political Parties and Their Potentiality to occupy the Seats of Parliament in Germany and the Federation of Malaya", *6 Malaya Law Review*, 130 (1964).
- Caine, S., "The Passing of Colonialism in Malaya, (1958), *29 Political Quarterly*, 258.
- Cowen, S., "The Emergency of a New Federation in Malaya, (1958) *1, Tasmania University Law Review*, 46.
- Das, S.K., "The Impact of Judicial Creativeness on Rights and Liabilities under the Due Process Clause" (1959) *1, University of Malaya Law Review*, 204.
- Groves, H.E., "The Constitution of the Federation of Malaya" (1962), *Indian Yearbook of International Affairs*, 103.
- _____, "The Constitution (Amendment) Act, 1962" (1962), *4, Malaya Law Review*, 245, 324.

- Groves, H.E., "Equal Protection of Laws in Malaysia and India" (1963), 12, *American Journal of Comparative Law*, 385.
- _____, "Fundamental Liberties in the Constitution of the Federation of Malaya: A Comparative Study", (1959), 5, *Howard Law Journal*, 190.
- Hickling, R.L., "The First Five Years of the Federation of Malaya Constitution" (1962), 4, *Malaya Law Review*, 183.
- Haug-Thio, S.M. "Constitutional Discrimination under the Malayan Constitution" (1964), 6, *Malaya Law Review*, 1.
- Jaya Kumar, S. and Trindade, F.A., "Citizenship in Malaya" (1964), 30, *Malaya Law Journal*, LVIII.
- Sawer, G., "Emergency Powers in Nigerian and Malayan Federation" (1964), 6, *Malaya Law Review*, 83.
- Sheridan, L.A., "A Digest of Dismissal and Reduction in Rank" (1962), *Public Law*, 260.
- _____, "Constitutional Problems of Malaysia", 1964, 13, *I.C.L.Q.*, 4.
- _____, "Federation of Malaya Constitution" (1959), *University of Malaya Law Review*, 29 and 246.
- _____, "Federation of Malaya's New Constitution" (1957), 23, *Malaya Law Journal*, LXIII.
- "The Right to Consult" (1958), 24, *Malaya Law Journal*, XLI.
- Smith, T.H., "The Effect of Recent Constitutional Changes on the Public Service in the Federation of Malaya and Singapore" (1957), 37, *Public Administration*, 267.

Index

- Abdullah, Firdaus Haji, 163, 441
Age of Nehru, 512
Agong, Yang di-Pertuan, 92, 312
Aney, 219, 225
Anti-Fascist Peoples Freedom League, 276
A Quest for Structural Adjustment, 123
 Boom and Bust, 124
 Growth Performance, 124
 Preliminary Results, 129
 Cost of Adjustments, 131
Asians Fight against Asians, 511
Ayyangar, Anantha Sayanam, 222
Azahari, Sheikh A.M., 50, 329
- Baba, Gafhar, 139, 140
Background of Indonesian Expansionism, 387
Bajpai, Girija Shanker, 222
Bandaranayake, S.W.R.D., 233
Bandung Conference, 511
Banerjee, Jyotirmoy, 487
Baroto, Al, 460
Batubara, Cosmas, 177
Bose, Subhas Chandra, 226
Boy, R. Juma, 75
British Authority in Malaysia, 514
Burma Indian Congress, 276
Burma Land Purchase Bill, 1941, 276
Burma Muslim League, 276
Central India Association of Malaya, 278
Ceylonese Federation, 73
Ceylon, 211, 229
 Immigration, 216
 Re-entry, 216
 Franchise, 216
 Citizenship, 231
 Illegal Immigration, 231
 Recent Developments, 235
Chih, Yuch, 13
Chinese in :
 Malaysia, 270
 Burma, 273
Chola, Rajendra, 25, 288
Communications Link under Commercial Camouflage, 418
Communities Liaison Committee, 74
Composition of Legislative Assembly, 565
Composition of the Population of Malaya, 67
Concept of Minority, 267
Constitution, 90
 Governmental Structure, 90
 Fundamental Liberties, 93
 Citizenship, 95
 Comparison with other Constitutions, 97

- Noteworthy Provisions, 98
- Recent Development, 110
- Constitution of Malaysia, 520
 - Fundamental Liberties, 522
 - Citizenship, 526
 - Federation, 540
 - States, 557
 - Relations between the Federation and the States, 560
 - Financial Provisions, 578
 - Elections, 590
 - Judiciary, 594
 - Public Services, 600
 - Special Powers against Subversion, 617
 - Temporary and Transitional Provisions, 635
 - Saving for Rulers' Sovereignty, 639
 - Conference of Rulers, 651
 - Grants and Sources of Revenue Assigned to States, 677
 - Procedure for Delimitation of Constituencies, 687
 - Aborigines, 82
 - Malayas, 82
 - Chinese, 84
 - Indians-Pakistanis, 85
 - Other Communities, 86
 - Constitutional Developments, 86
- Courts and the Judiciary, 700
- Current Situation of Sabah and Sarawak, 136
 - Political Situation, 136
 - Economic Situation, 144
 - Socio-Cultural Situation, 145
- Darvesman, S., 390
- Dato. Ismail Bin, 387
- David, V., 168
- Democratic Action Party, 168, 272
- Devahuti, II
- Development of Foreign Administration, 41
 - Malaya, 41
 - Sarawak, 42
 - Sabah, 43
- Differing Perceptions of the Concept of Serumpun, 465
- Disqualification for Membership of Legislative Assembly, 657
- Distribution of Executive Powers, 562
- Distribution of Financial Burdens, 564
- Djajusman, Sunarso, 177
- Djatikusumo, G.P.S., 311
- Djuanda, 312, 451
- Dravida Kazhagam, 278
- Dravida Munnetra Kazhagam, 278
- Economic Relations with Malaysia; 302
 - Joint Ventures, 302
 - Related Issue, 305
- Economic Slowdown and Regional Development, 155
- Election and Appointment of Senators, 653
- Election of Yang Di-Pertuan Agony, 647
- Emir, Mohamad Izat, 173
- Era of Confrontation, 468
- Excessive Political Domination of Kuala Lumpur, 151
- Exercise of Legislative Power, 659
- Expenditure Charge on Consolidated Fund, 659
- Expenditure—Reducing and Switching Policies, 127
- Extremist Communal Propaganda, 424
- Ezhilarasi, M., 287
- Federal-States Relations; 146
 - Proposal of Malaysia, 146
 - Federal Political Intervention, 149
- Federation of Malaysia, 307
- Field of Labour, 196
- First Malaysian Plan, 55

- Formation of Malaysia, 294
 Fourth Malaysia Plan, 58
 Future of Malaysia, 77, 509
 A New Element, 509
 Human Ingenuity, 509
 East-West Conflict, 510
 Australian Problem, 510
 Simple Division, 510
 New Division, 511
 Fantastic Alliances, 512
 Puzzle of Filipino Claim, 513
 Loss of Aura in Afro-Asia, 513
 Evolution of a Life of Ease, 514
 Industry of Immigrants, 514
 Battle for Merger, 515
 Problem of Adjustment, 516
 Great Visionary, 517
 Eventual Take-over by P.K.I., 517
 We want to be left alone, 517
 Territorial Ambitions, 518
 An Identity of Interests, 518
 Bulwark against Communism, 518
- Gandhi, Indira, 296
 Gandhi, Mahatma, 289
 Ghani, Ruslan Abdul, 311, 403
 Goodwill Visit to Indonesia, 337
 Gouney, Henry, 77
 Grover, Verinder, 507
 Grover, Harry E., 81
 Growth of Immigrant Communities, 39
 Gundevia, Y.D., 243
- Hamid, Abdul, 88, 117
 Hammerskjold, Dag, 321
 Harun, Tun Mustapha Datuk, 52, 137
 Hashim, Haji, 491
 Hatta, Mohammad, 388, 463
 History of Malaysia, 36
 Post-war Period, 46
 Hitam, Datuk Musa, 137
- Hui, Ong Kee, 147
 Hussein, Zakir, 295
- Impact of Emergency, 186
 Implications for Indonesia and ASEAN, 151
 Independence of Singapore, 149
 India-Malaysia Relations and Indira Gandhi, 296
 Regional Issues, 298
 International Issues, 299
 Indian and Chinese Minorities in Burma and Malaysia, 267
 Population, 269
 Malaysia, 269
 Burma, 269
 India, 274
 Business Class, 275
 Service, 275
 Labour Class, 275
 Indian Independence League, 278
 Indian Minorities in Ceylon, Burma and Malaysia, 201
 Indian National Army, 276, 278
 Indians already in Burma, 223
 Indians in Malaysia, 277
 India's Trade with Malaysia, 304
 Indigenous Society of Sarawak-Sapah, 38
 Indo-Malaysia Relations, 287
 In the Era of European Domination, 289
 Developments Since India's Independence, 292
 Indo-Malaysia Trade Relations, 303
 Indonesia and Malaysia;
 Similarities and Differences, 431
 Indonesia, Malaysia and the Indo-China Crisis, 487
 Indonesia-Malaysia Bilateral Relations, 430
 Indonesia-Malaysia Co-operation in the Future, 436
 Economic Co-operation, 436

- Co-operation in Technology, 437
 Social and Political Co-operation, 438
 Defence and Security Co-operation, 439
 Indonesian Allies in Malaya, 393
 Indonesian Aspirations, 387
 Indonesian Intentions Towards Malaysia, 387
 Indonesian Migrant Worker's Association, 174
 Indonesia's Confrontation of Malaysia, 406
 Ugly Front of Confrontation, 406
 Putting in the Teeth to Crush Malaysia, 409
 Military Training, 415
 Political Training, 415
 Specialist Training in Java, 416
 Demolition Agents and their Work, 420
 Indonesia's First Relations with Malaya, 390
 Intensification of Intrusions into Singapore and Malaya, 425
 Irok, Datuk Leo Moggie Anak, 142
 Ismail, Tengku Ahmad Rithauddeen bin Tengku, 287
 Issue of Malaysianisation, 150
- Jennings, Ivor, 88
 Johartono, 403
 Jugah, Tun, 142
 Junid, Megat, 180
 Juweng, Stepanus, 135
- Kalimantan Rebel Movement, 392
 Kamaruddin, Haji, 336
 Kanchan, R.K., 288
 Kashmir Issue, 295
 Kesejahteraan Rakyat Indonesia Semananjong, 450
 Khan, Sadath Ali, 241
 Kitingan, Jeffrey, G., 138, 141
 Kitingan, Pairing, 140
 Kuncoro, 123
 Kunhi, M.K. Muhammad, 201
- Land Alienation Act, (1948), 276
 Land Nationalization Act, 1753, 276
 Laycock, John, 75
 Loebis, Tahir Karim, 390
 Lopez, Salvador P., 330
 Lord Cobbold, 148
- Macapagal Plan, 380
 Mackie, J.A.C., 445
 Mahathir, 138, 304
 Mahmud, Abdul Taib, 142
 Majlis Kebangsaan Indonesia Malaya, 449
 Malaya after the War, 68
 Malaya-Indonesia Relations, 310
 Malaya-Chinese Association, 71, 116
 Malayan-Communist Party, 76, 389
 Malayan Indian Congress, 72, 147, 278
 Malayan Peoples Anti-Japanese Army, 271
 Malayan Trade Union Movement, 185
 Malayan Workers and their Future, 185
 MTVC's Role, 190
 Minimum Wage, 194
 How Far can we Go?, 195
- Malaya Society, 36
 Malay Nationalist Party, 70
 Malaysia Agreement and the Separation of Singapore, 150
 Malaysia and North Borneo, 381
 Malaysia in Historical Perspective, 11
 Malaysian Indians, 299
 Malaysian Malay Chamber of Commerce, 172
 Malaysian Trade Union Congress, 168
 Malaysia's Trade with India, 304
 Malik, Adam, 491
 Malik, B., 88

- Manila Accord, 380
 Mao Tse-Tung, 78
 Marshall, David, 147
 Maw, 39, 226
 McDonald, Malcolm, 77
 Mckell, William, 88
 Medan Agreement, 179
 Mediation in West Irian Dispute, 367
 Menon, K.P. Kesava, 52
 Merbok, R., 17
 Michael, Harold Mac, 64, 70
 Military and Security Interactions, 477
 Moenardjo, 427
 Mohammed, Mahathir, 272
 Mohamed, Tunku, 115
 Moro National Liberation Front, 492
- Narayanan, P.P., 185
 Nasution, Abdul Haris, 313, 447
 National Council for Local Government, 575
 Negara, Seri Mangku, 312
 Nehru, Jawaharlal, 291
 New Elements in Regional Development Strategies, 159
 New Entrants to Burma, 223
 New Malaya, 115
 Ningkan, Stephen Kalong, 142
 Northern Borneo and Malaysia, 50
 No Taxation unless Authorised by Law, 659
- Oaths of Office of Yang Di-Pertuan Agony, 650
 Ongkili, Datuk James P., 36
 Ongkili, Maximus, 140
 Onn, Dato, 70
 Onn, Datuk Hussain, 272
 Organisation of Confrontation, 410
- Pandit, Vijayalakshmi, 291
 Pan Malaysian Islamic Party, 272
 Parliament and Legislative Assemblies, 706
- Parti Bersatu Sabah, 137
 Parti Gerakan Rakyat Malaysia, 464
 Patil, S.K., 293
 Period from Mid-Nineteenth Century to the Great Depression, 205
 Ceylon, 205
 Burma, 206
 Malaya, 209
 Period from the Great Depression to the mid-Twentieth Century, 210
 Burma, 220, 238
 Malaya, 226, 245
 Persatuan Talabah Indonesia-Malaya, 449
 Phenomenon of Illegal Immigrants, 163
 PMV as Recruiting Agent, 412
 Political Constitutional Developments in Sarawak and Sabah, 47
 Political Parties in Malaya, 69
 Political Parties of Singapore, 74
 Political Penetration and Subversive Groups, 423
 Politics and Parties in Malaya, 52
 Post-Independence Period, 228
 Potential Factors of the Conflict, 150
 Federal-State Revenue Sharing, 151
 Equitable Distribution, 151
 Illegal Immigrants, 151
 Poverty and Mean Incomes in Malaysia, 132
 Prasad, Jagdish, 223
 Prasad, Rajendra, 287, 301
 Preparation for Aggression, 396
 Indonesian Army Takeover, 396
 Non-Intervention in Indonesian Practice, 398
 Espionage, 400
 Prime Minister's Invitation to Indonesia, 349
 Problem of Malaysia, 513
 Progressive Party of Singapore, 74
 Proposal for Extradiction Treaty, 355

- Provision against Double Membership, 658
- Qualification of Members, 657
- Quay Jande, 321
- Rachman, Otto Abdul, 334
- Radhakrishnan, S., 230
- Rafaelle, 138
- Rafiz, Mohamad, 311
- Rahman, Haji Abdul, 387
- Rahman, Tengku, 51, 116, 147, 271, 311, 415
- Rakjat, Hariom, 327
- Ramani, Radhakrishnan, 295
- Rangaswamy, K., 244
- Razak, Dato Seri Majib Tun, 171, 454
- Razak, Tun Abdul, 148
- Regional Development and the Fifth Malaysia Plan, 154
- Removal of Yang-Di-Pertuan Agong, 649
- Resolution of Partai Komunis Indonesia, 375
- Restatement of Srivijaya's Decline, 33
- Riot Inquiry Committee, 222
- Royal Malaysia Police, 55
- Rumpun Concept in Malaysia-Indonesia Relations, 441
- Sabah as Intermediary State, 58
- Sabah Chinese Consolidated Party, 137
- Sabah in Malaysia, 54
- Safaat, Adang, 492
- Salleh, Mat, 45
- Sarawak and Sabah, 426
- Sarawak National Party, 52, 141
- Second Malaysian Plan, 55
- Second World War, 310
- Sedomon, O.K.K., 46
- Sen, Sun Yat, 270
- Separation of Singapore from Malaya, 515
- Serumpun :
 Brief History and the Changing Concept, 443
- Shafie, M. Ghazali bin, 330
- Shastri-Bandaranyeke Agreement, 235
- Similarities and Differences in Malaysia-Indonesia Relations, 460
- Socio-Cultural Interactions, 461
- National and Social Dynamics, 464
- Political Interactions, 467
- After Confrontation, 468
- International Affairs, 473
- Economic Interactions, 474
- Singapore and Malaya :
 Relations with Political Organisations, 400
- Singh, Budh, 72-73
- Singh, Dinesh, 244
- Singh, Natwar, 298
- Singh, R.G., 267
- Singh, Swaran, 244
- Singh, V.P., 305
- Sirat, Morshidi, 154
- Sjahir, 390
- Soekarno, 388
- Sources of Revenue Assigned to States, 679
- Speaker of the Legislative Assembly, 658
- Special Grants to Borneo States, 679
- Sri-Vijaya, 19
- Stanley, Herbert, 212
- Stephen, Donald, 50, 52, 147
- Subandrio, 316, 408
- Sukarno, 311
- Summoning, Prorogation and Dissolution of Legislative Assembly, 658
- Suri, Haribhadra, 17
- Tajem, Daniel, 142

- Tan, C.C., 75
 Tan Cheng-Lock, 71
 Termination of Citizenship, 531
 Third Malaysia Plan, 55
 Thivy, John A., 72
 Thondaman, 234
 Thuraisingam, E.E.C., 73
 Tokyo Meeting, 377
 Training Camp at Tanjong Sekupang, 414
 Treaty of Friendship between the Federation of Malaya and Republic of Indonesia, 345
 Trend of Unions, 188
 Tripartite Summit Meeting, 378
 Turbulences in Sabah and Sarawak, 135

 UMNO Youth Movement, 453
 United Malaya National Organization, 69, 116, 271
 United National Kadazam Organization, 52
 United National Pasok Momogun Organization, 52
 United Sabah National Organisation, 51, 137
 U Nu, 242
 Wages and Working Conditions, 192
 Wahab, Wahib, 313
 Wanandi, Jusuf, 430
 West Irian Volunteers, 402
 Win, Ne, 240, 276
 Winstedt, Richard, 289
 Wong, Datuk Umar James, 142

 Yaacob, Ibrahim bin Haji, 318, 394
 Yakut, 17
 Yamin, Muhammad, 388, 446
 Yew, Lee Kuan, 147, 509

 Zahari, Said, 398, 407
 Zain, Isa, 403
 Zainuddin, Datuk Padukazaim, 140