

# The Filthy Lies, Distortions, Misrepresentations And Myths About Right To Citizenship When Malaya Became Independent in 1957

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*The number 1 reason for the racial disunity, the lurking fear and suspicions of the various communities since 1957, aggravated since 1969 and continue to fester till today, stems from the conscious effort by certain vested political interests in spreading the heinous lies, distortions, misrepresentations and myths regarding how citizenship was agreed to be granted in the various agreements, conferences leading to the Independence of Malaya.*

## 1) A BRIEF HISTORY

*The undisputed facts, which this article relies upon is sourced from the:*

**Report of the Federation of Malaya Constitutional Commission 1957,  
LONDON  
HER MAJESTY'S STATIONERY OFFICE  
EIGHT SHILLING NET  
Colonial No. 330**

*(hereinafter referred to as the “**said Report**”). **Extracts** from the said Report, will be referenced by “Chapter Headings” and the “Numbered Paragraphs”.*

### Introduction

*Prior to 1957, within the geographical area of the Peninsula Malaya, there was no nation-state encompassing the entire peninsula, with a common nationality.*

**Chapter II, Para 19** Before the Japanese occupation, the States and Settlements of the Federation of Malaya, together with Singapore, formed three distinct political groups; these were (1) the Crown Colony called the Straits Settlements, which included the Settlements of Singapore, Malacca and Penang, (2) the Federated Malay States, comprising the States of Negri Sembilan, Pahang, Perak and Selangor which had entered into a Federation by treaty in 1895, and (3) the remaining five States of Johore, Kedah, Kelantan, Perlis and Trengganu known as the Unfederated Malay States. In the Straits Settlements there was the normal form of Crown Colony government, with a Governor, an Executive Council and a Legislative Council. The Executive Council was wholly composed of official members, and the Legislative Council wholly nominated but containing equal numbers of official and unofficial members. The centre of government was at Singapore.

**Chapter II Para 20** In those Malay States which became the Federated Malay States British authority rested upon Agreements concluded with the Rulers at various dates from 1874 onwards. Before the Treaty of Federation in 1895,

British Advisers in the States were responsible directly to the Governor of Singapore, but after that date they became subordinate to a Resident-General in Kuala Lumpur who, in turn, was responsible to the Governor of Singapore in his capacity as High Commissioner of the Federated Malay States. Although not identical, **these Agreements preserved the sovereignty of the Ruler in his State and bound him to accept the advice of a British officer on all matters of general administration in his State except those relating to the Muslim religion and Malay custom.** The supreme authority in each of the States was vested in the Ruler-in-Council. **Subjects of the Rulers were also British protected persons and the States themselves were protected States....**

**Chapter II, Para 21** The Unfederated States in the North, Kedah, Kelantan, Perlis and Trengganu came under British protection in 1909 when Siam transferred to Britain her suzerainty over these territories, **and, under a series of Agreements, a British Adviser was appointed to each State. The fifth of the Unfederated States, Johore, had confided the control of its foreign affairs to the care of Great Britain by a Treaty of 1885, but it was not until 1914 that an Agreement was concluded with the Sultan under which a British officer was appointed as General Adviser.** In these States the executive authority rested with the local State Government and was exercised by Malay officials of whom the Mentri Besar was the Head and there was a friendly co-operation between the State administration and the British Adviser which made it unnecessary for the ultimate power of 'advice' to be exercised. It was the policy of these States to preserve the Malay way of life and to develop their administrations on the basis of the considerable degree of self-government which they enjoyed.

**Chapter II, Para 22** After the period of enemy occupation the Malayan Union was set up in 1946 under an Order-in-Council. This Order-in-Council was in operation from 1946 to 1948 but it was never fully implemented. **During this period new proposals were under consideration which led to the creation of the Federation of Malaya in 1948, in which each State and Settlement was to retain its own individuality but all were to be united under a strong central government. The Constitution of the Federation was based upon the Federation of Malaya Agreement of 1948 between the Crown and the Rulers jointly, and upon a series of State Agreements between the Crown and the nine Malay Rulers individually.** These were brought into effect by Order-in-Council on 1st February, 1948.

**Chapter II, Para 26** The States had very limited legislative powers..... **A British Adviser was appointed in each State and the Rulers undertook to accept the advice of their Advisers on all State affairs other than those relating to the Muslim religion and Malay custom.** Johore was in fact granted a Constitution in 1895. Trengganu's Constitution dates from 1911. Appropriate amendments were made in these Constitutions, and the other States received their Constitutions in 1948, following on the 1948 Agreements.....

**Chapter II, Para 27** The Settlements of **Malacca and Penang were included in the Federation by Order-in-Council.** There were set up in each a Settlement Council with legislative powers similar to those of the Councils of

State, and a Nominated Council with powers similar to those exercised by the State Executive Councils. The chief executive officer in each Settlement was the Resident Commissioner and executive action was taken in the name of the High Commissioner. The reserved powers exercised by the Rulers in the States were exercisable by the High Commissioner in the Settlements.

*From Chapter II, paragraph 27, it is abundantly clear the Straits Settlements were not under the jurisdiction of a Sultan during the British colonial rule (even though historically, Malacca was a Sultanate until its demise in 1511 when it was invaded and conquered by the Portuguese). The inhabitants (Malays, Chinese, Indians etc.) of the two Straits Settlements were by British laws “subjects” of the British Crown and were ruled by a British High Commissioner. At the material time, for geopolitical reasons, the British excluded Singapore from the overall scheme of things. It stated categorically in Chapter II, Para 19 (see above) there were three distinct political groups or entities which would constitute the future Nation State (the Federation of Malaya) in 1957:*

*(1) **the Crown Colony** called the Straits Settlements, which included the Settlements of Singapore, Malacca and Penang;*

*(2) the **Federated Malay States**, comprising the States of Negri Sembilan, Pahang, Perak and Selangor which had entered into a Federation by treaty in 1895, and*

*(3) the remaining five **Unfederated Malay States** of Johore, Kedah, Kelantan, Perlis and Trengganu.*

*It cannot be emphasised enough that the **inclusion of the Crown Colony - the Settlements of Penang and Malacca – and the inhabitants (British subjects) was a fundamental term and condition in the Federation of Malaya Agreement, 1948** which was the **template and precursor for the subsequent Constitution of the Federation of Malaya and our Independence in 1957.***

*With this historical background in mind, it is now clear how the citizenship of the new nation state – Federation of Malaya, would be conferred under its Constitution. The Report made the following findings and recommendations:*

## **2. CITIZENSHIP**

### **The Factual Truth**

*There is nothing complicated or that there was a special agreement or concession by UMNO as to how non-Malays were entitled to be citizens regardless whether they were the subjects / inhabitants of the Federated Malay States, the Unfederated Malay States and the Straits Settlements of Penang and Malacca (which consist of British subjects of Malay, Chinese, Indian descent).*

*Clarity can be found in the said Report's, “terms of reference” which provides:*

**Chapter I Para 3** The members of the Commission were appointed in the name of Her Majesty the Queen and Their Highnesses the Rulers with terms of reference as follows:

To examine the present constitutional arrangements throughout the Federation of Malaya, **taking into account the positions and dignities** of Her Majesty the Queen and **of Their Highnesses the Rulers**; and

To make **recommendations for a federal form of constitution for the whole country** as a single, self-governing unit within the Commonwealth based on **Parliamentary democracy with a bicameral legislature**, which would include provision for:

(i) the establishment of a strong central government with the States and Settlements enjoying a measure of autonomy (the question of the residual legislative power to be examined by, and to be the subject of recommendations by the Commission and with machinery for consultation between the central Government and the States and Settlements on certain financial matters to be specified in the Constitution;

(ii) the **safeguarding of the position and prestige of Their Highnesses as constitutional Rulers** of their respective States;

(iii) a constitutional Yang di-Pertuan Besar (Head of State) for the Federation to be chosen from among Their Highnesses the Rulers;

(iv) a **common nationality for the whole of the Federation**;

(v) the **safeguarding of the special position of the Malays and the legitimate interests of other communities.**

*We will begin by focusing on Paragraph 3(iv) relating to the issue of a “common nationality”. Subsequent paragraphs of the said Report will put to an end the lies as to the scope of entitlement of citizenship. The first reference which we must consider is:*

**Chapter 1, Para 5** The agreement of the Conference of Rulers to the terms of reference and the two understandings was subject to a rider which read as follows: **“Their Highnesses wish it to be understood that they do not wish the word “nationality” in paragraph (iv) to be interpreted by the Commission in a strict legal sense but to be used widely enough to include both nationality and citizenship** so that, if the Commission so wishes, it can preserve the combination of nationality and citizenship **which is expressed in the Federation of Malaya Agreement 1948, but naturally without any restriction on the expansion of citizenship so as to produce what in effect would be “a common nationality”**”. The terms of this rider were accepted by Her Majesty’s Government and conveyed to our Chairman.

*Read the words highlighted in bold. In essence, the Conference of Rulers (not UMNO) wanted the term “nationality” to be interpreted “**not in a strict legal**”*

**sense, but used widely...and as expressed in the Federation of Malaya Agreement 1948” and “without any restriction on the expansion of citizenship so as to produce... a common nationality.”**

*Given this specific injunction by the Conference of Rulers, which was so critical to be included in the said Report and accepted by the British, it cannot by any measure or means for UMNO or any Malay political leader to assert (as they never ceased to do) that it was UMNO who made concessions to have non-Malays, especially the Chinese to be **allowed** to be citizens and in exchange, the non-Malays should not question the special position of the Malays. The Malay leaders alleged, to borrow the Latin expression, a “quid pro quo” in the oft repeated propaganda, that this was a fundamental term in the social contract formulated by UMNO.*

*Additionally, sub-paragraphs (ii) the safeguarding of the position and prestige of Their Highnesses as constitutional Rulers of their respective States; and (v) the safeguarding of the special position of the Malays and the legitimate interests of other communities, were not stated to be in the conjunctive but, rather disjunctively i.e. there was no trade-off, as the matters reflected what were agreed in the Federation of Malaya agreement, 21<sup>st</sup> January, 1948. This agreement was in fact preceded by 11 separate agreements between the British and the nine Sultans of the Federated and Unfederated Malay States and the two settlements. The issue of citizenship was vital to the establishment of a united country. The findings reproduced below of the said Report, will put the matter to rest.*

**Chapter 1 Para 14** In making our recommendations we have had constantly in mind **two objectives: first that there must be the fullest opportunity for the growth of a united, free and democratic nation, and secondly that there must be every facility for the development of the resources of the country and the maintenance and improvement of the standard of living of the people.** These objectives can only be achieved by the action of the people themselves: our task is to provide the framework most appropriate for their achievement. **We must start from the present position as we find it, taking account not only of the history and tradition of Malaya but also of existing social and economic conditions.** Much that is good has already been achieved and we would not seek to undo what has been done. **But many existing arrangements are inappropriate for a self-governing and independent country, and, in recommending the form which the necessary political and administrative changes should take, we have borne in mind that the new provisions must be both practicable in existing circumstances and fair to all sections of the community.**

**Chapter 1, Para 15** Approaching our task in this way we think **it essential that there should be a strong central Government with a common nationality for the whole of the Federation.** Moreover we think it also essential that the States and Settlements should enjoy a measure of autonomy and that Their Highnesses the Rulers should be **constitutional** Rulers of their respective States with appropriate provisions safeguarding their position and prestige.....

*We will now hammer in the nail to the coffin of the mischievous and divisive argument by champions of the Malays that the grant of citizenship was an act of generosity.*

**Chapter II, Para 28** In this brief review of the provisions of the 1948 Agreements it is necessary to mention two further points both of which are of considerable importance. **In the preamble to the Federation Agreement it was stated as a matter of policy '... that there should be a common form of citizenship in the said Federation to be extended to all those who regard the said Federation or any part of it as their real home and the object of their loyalty.'** Secondly the last paragraph of the preamble recorded the desire of His Majesty and Their Highnesses that progress should be made towards eventual self-government, and the agreement of His Majesty and Their Highnesses that, as a first step to that end and as soon as circumstances and local conditions would permit, legislation should be introduced for the election of members to the several legislatures to be established pursuant to the Federation Agreement.

*In the foregoing paragraphs on citizenship, extracted from the said Report, there are no statements whatsoever that **a certain number of non-Malays, as a matter of generosity, would be granted citizenship.** In contrast, the above paragraph 28, states clearly that citizenship **should “extended to all those who regarded the Federation or any aprt of it as their real home and object of loyalty.”***

*The leading Champions of the Malays never ceased to say and assert that non-Malays, especially the Chinese should be forever grateful that UMNO / Malays **were so generous as to allow over a million Chinese to be citizens.***

*With respect and in the light of the above irrefutable statements, the figure of over a million Chinese were granted citizenship as a result of the generosity of UMNO leaders is but a figment of their imagination and deliberate distortion of historical facts by some UMNO leaders, past and present.*

*The distortion that citizenship was granted by way of UMNO's generosity and not the recognition of the reality - the collective efforts of all communities in building the new nation, is further rebutted by the what transpired in 1952, five years before Independence!*

**Chapter II, Para 31** The next important change occurred when amendments were made to the law of citizenship. **New legislation was enacted in 1952 by the Federal Government and by each of the State Governments providing for automatic citizenship on a wider basis** and for the acquisition of citizenship by registration or naturalisation upon less stringent terms than those which had operated formerly. **Those who became citizens by operation of law included all those who by operation of law or otherwise were already Federal citizens under the provisions of the 1948 Agreement; subjects of the Rulers as defined in the State legislation; and a limited class of citizens of the United Kingdom and Colonies.**

**Chapter III Para 37 (i)** We recommend that **all who have rights of citizenship before Merdeka Day should continue to have such rights. Those who have already established their rights of citizenship should continue to be citizens after Merdeka Day and they will not require to make any further claim. Those who are now citizens by operation of law but who have not yet established their rights and those who are now entitled under clause 126 of the Federation Agreement to be registered as citizens as of right should continue to be entitled to claim the rights of citizenship or to claim to be registered after Merdeka Day.** If those now entitled as of right to be registered as citizens make their claims before Merdeka Day they will remain citizens after that day and we do not think that they should lose their rights simply because of delay in making their claims until after Merdeka Day. Mr Justice Abdul Hamid does not agree that Article 15(1) should be included.

**Chapter III, Para 38 (ii)** We recommend that all those born in the Federation on or after Merdeka Day should be citizens by operation of law. We received many representations that the principle which has come to be known generally in Malaya as jus soli should be given retrospective effect. We are not satisfied that it is entirely possible or desirable to provide that all those who were born in Malaya, whatever be the date of their birth wherever they may be now, and whatever be the present nationality, should be retrospectively made citizens of the Federation by operation of law. A great majority of them will, however, be qualified to obtain citizenship by registration as of right under Articles 15 and 16 referred to in paragraphs 37 and 39 of this Report.

**Chapter III Para 39 (iii)** We recommend that citizenship should be obtainable without undue difficulty by those born in the Federation before Merdeka Day and now resident there, provided that they intend to reside in the Federation permanently, and are prepared to take an oath of allegiance and declare that they will not exercise any right or privilege which they may have under the nationality laws of any foreign country.

### **3. CONCLUSIONS**

#### **The Federal Constitution**

*Article 14 of the Federal Constitution read in conjunction with Part I and II of the Second Schedule is a reflection of the findings and recommendations of said Report referred to above.*

*For the purposes of this essay, we will only focus on Article 14 of the Constitution because it refutes convincingly the hideous and sinister arguments that citizenship was offered to the non-Malays as a matter of generosity on the part of UMNO in particular and the Malays in general. We have not ventured into the debate **after the founding of Malaysia**, as the debate that has caused so much misunderstanding and hatred centred on events and circumstances leading to the **Independence of Malaya in 1957** for which UMNO and its moronic leaders are harping till today. Hence, when reading the present Constitution (Article 14 and the Second Schedule, see below) with the benefit of studying the historical documents, specifically the said Report, there can be*

*only one conclusion – what we have is a common nationality and citizenship. We are all Malaysians, regardless of race, religion and culture.*

## **EXTRACT FROM THE FEDERAL CONSTITUTION**

### Part III

### **CITIZENSHIP**

#### *Chapter 1 – Acquisition of Citizenship*

14. Citizenship by operation of law.

(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

### **SECOND SCHEDULE**

(Article 39)

#### **PART I**

(Article 14 (1) (a))

#### **CITIZENSHIP BY OPERATION OF LAW OF PERSONS BORN BEFORE MALAYSIA DAY**

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**;

In parting, may I urge all good people of Malaysia, as and when you hear or read any article by anyone, that citizenship was granted to non-Malays



(numbering in excess of 1million) on account of the generosity of UMNO or the Malays - the name of organisations that claim to represent these Malays and or their representations made prior to Independence - to request from them the source of their contention (links, websites, name of authors or government agencies). This is the only way we can expose their perfidy and dishonesty and would enable all of us who are concern in uniting the country, to counter such insidious propaganda.

Please help me to help you and our fellow citizens to rebuild our country and to foster genuine unity and harmony and not politicians' opportunistic compromises in furtherance of their self-serving political agenda.