

The Malaysian Social Contract: A Historical Perspective

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Abstract

This paper delves into the concept of social contract, a framework rooted in the diverse theories pioneered by Western philosophers, to expound on the unique facets of the Malaysian social contract. This concept elucidates different forms of agreement between the people and the ruler in establishing an organised society. Unique and central to Malaysia, this contract involves traditional elements integral to the Malay establishment, encompassing Islam, the Malay language, the special position of the natives and the institution of Malay rulers in addition to citizenship rights for qualified individuals. To comprehend the distinctiveness of the Malaysian social contract, it is imperative to explore its historical context, tracing back the compromise forged among the inter-ethnic groups towards the independence of the Federation of Malaya. This historical narrative reveals that the post-World War II is Malaysia's state of nature. However, the Malaysian social contract extends beyond understanding and consensus of inter-ethnic groups namely the Malays and the non-Malays. It also incorporates the agreement between the populace as a whole and the sovereign Malay rulers. Enshrined in the Federal Constitution, traditional elements and balancing provisions ensure compliance with the mutually agreed-upon social contract for both the Malays and the non-Malays.

Keywords: *Social Contract; Traditional Elements; Federal Constitution of Malaysia; National Unity; Ethnic Relations*

Introduction

In 2021, the Malaysian government launched the National Unity Policy to foster, strengthen, and preserve unity by implementing various strategies (Ministry of National Unity, 2021). This policy was meticulously drafted with reference to the Federal Constitution of Malaysia and National Principles (*Rukun Negara*). According to Aboo Talib @ Khalid and Shamsul (2020), the Federal Constitution serves as a form of an integration platform to maintain national peace, achieved through legally accepted principles of tolerance by leaders, the people and the country as a whole. The National Unity Policy identifies five fundamental tenets embedded within the Federal Constitution collectively forming the cornerstone of the integration platform. These tenets are outlined as follows:

Table 1. Five fundamental tenets in the Federal Constitution of Malaysia according to the National Unity Policy

Provisions	Explanation
Article 3(1)	Islam is the religion of the federation, however, other religions can be practised in a peaceful manner anywhere within the Federation.
Article 152(1)	The Malay language is both the national language and official language, however, the mother tongues of other races can be taught and spoken.
Article 153	The special position of the Malays and indigenous peoples of Sabah and Sarawak is recognised, however, the interests of other races are also protected.
Article 181	The sovereignty of Malay rulers is upheld.
Article III	Citizenship rights are accorded to those who qualify according to the Federal Constitution.

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According to Yaakop and A. Aziz (2014), Shamsul (2012), Faruqi (2012), Ahmad (2009), Bari (2008) and Azlan Shah (2004), the aforementioned five fundamental tenets constitute what is commonly known as the social contract. This social contract describes an understanding and an agreement forged through a process of tolerance among the three largest ethnic groups, namely the Malays, Chinese, and Indians, towards the independence of the Federation of Malaya. This agreement essentially involves granting mass citizenship to immigrants through the concept of *jus soli* as a reciprocate to retain several matters related to protecting the status and rights of the Malays as a native in the Malay peninsula (Ahmad Sabri, 2014; Harding, 2012).

As posited by Abas (1985), the status of Islam, the Malay language, the special position of the Malays, and the institution of Malay rulers are traditional elements, which is integral components of the Malaysian social contract. These elements, deeply rooted in the practices predating the British colonisation, were preserved in the Federal Constitution by the Reid Commission. This constitutional allocation took into account aspects of the history, tradition, and heritage of the native people in Malaya (Abd Khalid et al., 2021). The traditional elements are also known as indigenous elements, which are unique to Malaysia (Bari, 2003). The inclusion of these elements in the Federal Constitution aligns with a global practice where countries incorporate traditional elements based on their respective history (Paidi et al., 2018). Thus, the preservation of traditional elements in the Federal Constitution is a recognition that Malaya is the ancestral homeland of the Malays (Faruqi, 2021).

However, Balasubramaniam (2018) stresses that the social contract became a contentious issue in Malaysia due to divergent interpretations of its implementation, encapsulating two distinct beliefs, namely ethnocrats and liberals. The crux of this disparity is due to the historical interpretation of the Malay status as natives. Through the ethnocrat lens, they see Malaysia, especially the peninsula, which was called Malay land (*Tanah Melayu*) and is the homeland of the peninsula Malays. Therefore, proponents of ethnocracy believe that the Malays are natives of Malaysia. This belief justifies the ideology of Malay supremacy (*Ketuanan Melayu*) among the ethnocrats, which emphasises the hegemony of the Malays in political and governmental administrations. The ethnocrats also attribute the influx of immigrants from mainland China and India on a large scale in Malaya as the result of British colonialism.

Contrary to ethnocratic perspectives, as articulated by Balasubramaniam (2018), the liberals criticise the notion of Malaysia as the homeland of the Malays by stating that there is no historical basis to support such a claim. This is because the liberals believe that the Malays are also immigrants, while the Orang Asli is the only true native in the Malay Peninsula. Despite their differing historical perspectives, both the ethnocrats and the liberals converge on the importance of adherence to the social contract and the Federal Constitution in maintaining peace and harmony. However, to achieve the envisioned peace and harmony, the ethnocrats advocate through the ethnocratic rule mandate, emphasising Malay supremacy, while the liberals assert the liberal rule. The dichotomy in approaches resulted in the ethnocrats and liberals harbouring distinct beliefs regarding the position and implementation of traditional elements in the Federal Constitution, primarily related to the religion of the federation and the special position of the Malays.

The position and implementation of traditional elements in the Federal Constitution, an integral part of the social contract, continue to be a source of polemic, conflict, and controversy until today because there are non-Malays who feel that the existence of these elements cause the existing system to become undemocratic (Muslim, 2020). This is proven through a study conducted by Muda et al. (2022) which found that the Malays are more likely to accept or be positive towards discussions about social contract, while the non-Malays take it with mixed emotions and relate it to racial politics involving issues of corruption, transparency and integrity. Muslim et al. (2012) attribute this disparity to the Malays community considering the social contract as something sacred, while the non-Malays perceive the social contract as tied to the past and no longer relevant. Thus, Yaakop and A. Aziz (2014) raises the question of whether today's generation acknowledges the existence of the social contract that became the basis for the formation of Malaysia.

Background of Social Contract

According to Lessnoff (1990), the social contract theory forms the basis of the legitimacy of political authority and defines the mutual obligations of rulers and subjects based on a premised contract or contracts

relating to these matters. He further stresses that the history and justification of the social contract idea are inescapable and deeply entwined. Therefore, if the historical account is flawed or unimportant, then the theory shall collapse.

In this matter, Gough (1957) delineates two distinct contract types frequently included under the social contract. The first is the idea of the proper social contract, which postulates that several people who were all living in the state of nature agreed to establish an organised society. The second type involves a contract between the people and their ruler, assuming the existence of a state and seeking to define the terms of governance. In this case, the ruler offered the people protection and good governance, while the people swore to obey the ruler. But if the ruler misgoverns, the agreement is breached, and the allegiance ends. In summary, the purpose of the first type is to create the state, while the second aims to establish its laws and regulations.

The idea of social contract has given rise to diverse theories pioneered by Western philosophers such as Thomas Hobbes, John Locke and Jean-Jacques Rousseau (Bari, 2008). They debate different forms of consent from the people to surrender their rights and freedoms to the ruler (Abd Razid, 2011). These theories have differences in ideological tendencies formed based on assumptions about human life in the state of nature. Thus, these theories also suggest different factors that can lead to adherence to the social contract. Based on the reference to Gough (1957), the differences between the classical social contract theories can be summarised in the following table.

Table 2. Comparison between classical social contract theories

Philosophers	State of Nature	Forms of Social Contract	Ideological Tendencies	Factors of Adherence
Thomas Hobbes	State of war. Men are practically equal but divided between the weak and the strong.	Absolute submission to the authority of a ruler.	Absolutism	Fear
John Locke	The state of freedom and equality is one in which men have legitimate duties.	The people do not enter into a contract with their ruler, but make the government as trustees on their behalf.	Contractarianism	Trust
Jean-Jacques Rousseau	A brutally isolated state where men were physically far more powerful than they are now.	The government is not a trustee but a mere delegate of the sovereign general will.	Collectivism	General Will

The concept of the social contract, as developed by the Western philosophers finds resonance among the Malay people, where its existence can also be traced back to the Malay history notably narrated by Tun Sri Lanang in *Sulalatus Salatin* or more commonly known as the *Malay Annals* (Wan Husain, 2018b). This framework entails an agreement or covenant accentuating the reciprocal obligations or bonds between the ruler and the populace. It stipulates that the ruler must refrain from arbitrary and oppressive rule, while the people are bound to obey a ruler who governs with honesty and fairness. According to Azmi (2023), from the Malay Annals emerged the principles of the ruler's sovereignty (*daulat*) and disobedience (*derhaka*) ingrained in the Malay society. Aligned with the Malay proverb, '*raja adil raja disembah, raja zalim raja disanggab*' (a just king is obeyed, a tyrant king is opposed), the text in the Malay Annals impart an ethical code that the ruler should rule justly. In instances of failure, the people are allowed to criticise or punish the ruler, albeit moderately and in accordance with the law and the country's interests.

The matter above shows that the concept of absolute monarch is not in line with the basis of the Malay sultanate (Bari, 2008). On the other hand, the traditional structure of the relationship between the ruler and the populace dealt with in the Malay sultanates is based on the concept of oath of allegiance (*bai'at*) as elucidated in the Malay Annals (Wan Husain, 2018a). However, in contrast to the classical social contract theories that prioritise the aspect of individual rights, the social contract, according to Malay history, emphasises the reciprocity between the ruler and the people for matters that have been agreed upon (Bari, 2008). In the contemporary Malaysian context, the reciprocity of the social contract involves the importance of maintaining traditional elements. This understanding is navigated through the brief trajectory of Malaysian history, commencing with the formation of the Federation of Malaya.

Plural Society and Demographic Changes in Pre-Independence Malaya

The arrival of immigrants to Malaysia, especially in Malaya, traces its roots back to the era of the Malacca sultanate. However, during this period, the number of immigrants was relatively limited in scale and did not significantly change the demographics of the local population. These immigrants assimilated seamlessly into the local culture and later formed mixed *Peranakan* ethnicities such as Baba Nyonya and Chettiar. Nevertheless, the mass arrival of immigrants from mainland China and India to Malaya took place in the 19th and 20th centuries prompted by the encouragement from the British colonialists. This situation occurred due to the British economic interests that insisted on the need for foreign labour as the local population refused to provide it willingly.

The British did not bring in the influx of immigrants from mainland China and India to Malaya according to their homogeneity. As highlighted by Ratnam (1965), Chinese immigrants consist of various groups with their respective mother tongues, such as Hokkien, Cantonese, Hakka, and Teochew. Each group's maintained unique traditions, pursued different occupations, and resided in different areas. Similarly, Indian immigrants were segregated according to their dialects and language groups based on their place of origin in India.

According to Low (2013), the existence of a plural society in Malaya is characterised by differences in citizenship status. Chinese individuals, regardless of their place of birth, are recognised as Chinese citizens based on the principles of *jus sanguinis* and the Chinese Nationality Law of 1909. Immigrants who came from India, especially in the southern areas under the British colonies, are generally considered British subjects. However, residents of the Straits Settlements have a unique situation, allowing for dual citizenship, British, through the principle of *jus soli* and other citizenships according to their parents based on the principle of *jus sanguinis*. Since the non-Malays are still recognised as citizens by their origin country, they pledge political loyalty to their respective homelands and receive diplomatic protection for their interests.

However, the situation is different for the Malays deemed as natives and subjects of the Malay ruler. This status also applies to Orang Asli residing within the boundaries of the Malay states. A crucial characteristic of a Malay ruler's subject lies in their acknowledgment of the ruler's supremacy, making them deployable whenever required. The Malay sultanates, for example in Perak, rejected foreigners such as Chinese and Indians as their subjects or to be part of the local community (Adam, 1998). The British at first also considered the non-Malays as foreigners and a temporary population. Therefore, there was no need to change their status through the granting of citizenship. This situation caused only Malay aristocrats and colonial officials to be involved in politics and administration, especially in the Malay states (Low, 2013).

Nevertheless, the influx of immigrants on a large scale caused the demographic ratio of the Malays to decline and unwittingly become a minority in their own land. For example, according to Ramli (2015), the Chinese became the largest population in 1941, amounting to 43 per cent, compared to the Malays, which is only 41 per cent, while the Indians accounted for 14 per cent. The Chinese are also the majority population in the Straits Settlements. They outnumbered the Malays in the Federated Malay States, namely in Perak, Selangor and Negeri Sembilan, where the Chinese made up 44 per cent of the total population compared to the Malays with only 33 per cent. Nevertheless, the Malays are still the majority in the Non-Federated Malay States, constituting 66 per cent, except in Johor, where the Chinese outnumber the Malays.

In order to manage the pluralistic society in Malaya, the British colonisers practised a *divide-and-rule* policy wherein each ethnic group was administered separately. Treating Chinese and Indians as temporary residents, they are allowed to live according to their respective lifestyles. The Chinese were placed in the urban areas to work in the trade and mining sectors while the Indians worked in the farm areas. Malays were mostly farmers and fishermen who lived in rural areas. The form of administration implemented by the British colonialists is considered to be deliberate in order to enable the British to tighten political and economic control in Malaya through the role of the middleman when there is a dispute involving different ethnic groups (Ramli, 2015). The *divide-and-rule* policy implemented by the British resulted in economic and social imbalance among the population when Malaya later achieved independence (Muslim et al., 2012).

The Malayan Union Proposal

The conclusion of the Second World War in 1945 marked the surrender of the Japanese empire, which at that time controlled most of Southeast Asia, including Malaya. The situation created an interregnum in Malaya and allowed the *Malayan People's Anti-Japanese Army* (MPAJA) to reign for a while. MPAJA acted cruelly by taking revenge on those who were considered to have cooperated with Japan, including the Malays. The situation triggered a racial conflict at that time. However, the British then regained control of Malaya and announced the proposed establishment of the Malayan Union in October 1945 to replace the *British Military Administration* (BMA) which temporarily administered Malaya.

The Malayan Union concept was radical and intended to completely change the administrative structure in Malaya. The Malayan Union merged the Straits Settlements, Federated Malay States, and Non-Federated Malay States into a single form of administration, and each state was administered by a High Commissioner. The central administration was headed by a Governor appointed by the British government. Through the Malayan Union, the institution of the Malay rulers was maintained, but their entire power was stripped away. The Malay rulers were only members of the Council of Rulers, devoid of any executive power, serving only in advisory roles to the Governor in matters related to Islam and Malay customs. In addition, the principle of *jus soli* allowed all people born in Malaya and Singapore to obtain citizenship regardless of their ethnicity or status.

According to Stockwell (1979), the Malayan Union proposal challenged the prior policy held by the British which involved three main pillars, namely, the sovereignty of the Malay rulers, the autonomy of the Malay states, and the special position of the Malays. Notably, there was a discernible inclination by the British to prioritise non-Malays with a suggestion that more Chinese should become citizens of the Malayan Union than the Malays, driven by the purpose of safeguarding British economic and political interests (Ramli, 2015). This decision triggered the Malays to rise up against the Malayan Union as it not only eliminated the power of the Malay rulers but also threatened the rights of the Malays and only benefited the non-Malays. The Malays shall no longer be recognised as natives and will subsequently lose their dominance and identity.

The non-Malays exhibited a mixed reaction to the Malayan Union proposal. As for the Kuomintang members and Chinese born in mainland China, they showed little to no interest due to their political allegiance is only to their country of origin. For some Chinese individuals, embracing the Malayan Union implied renunciation of their original citizenship, thus creating a dilemma. The moderate Chinese were less resistant to the Malayan Union because they were enticed by the opportunity of gaining citizenship. The Indian community's stance was divided on the Malayan Union issue as the focus of Indian politics in Malaya until the middle of 1946 was on the political development in India. But starting in the middle of 1946, the majority of Indians in Malaya welcomed the Malayan Union's citizenship plan for all ethnic groups and the centralisation of the government (Ramli, 2015).

Establishment of the Federation of Malaya

In response to the mass resistance of the Malays, the British finally acquiesced and dissolved the Malayan Union in December 1946 and was replaced by the Federation of Malaya on February 1, 1948. This was a victory for the Malays because it restored their sovereign rights (Mohd. Rus, 2009). The restoration of the

Malay rights is evident in Article 19(1)(d) of the 1948 Federation of Malaya Agreement which places the responsibility of protecting the special position of the Malays on the British High Commissioner (Fernando, 2015). This also means that the Federation of Malaya was officially recognised as a Malay nation in terms of the constitution (Comber, 2013).

The Malays community consented to grant federal citizenship to other ethnic groups that showed undivided loyalty to Malaya, but the conditions for citizenship were tightened. These strict conditions prevented most non-Malays from becoming citizens of the Federation of Malaya (Comber, 2013). Therefore, the Chinese felt disappointed because they consider the 1948 Federal Constitution as discriminating against them and only giving benefits and interests to only one ethnic group. Furthermore, the exclusion of Singapore from the Federation of Malaya also demoted the Chinese as the second largest ethnic group.

In May 1948, the situation in the country became tense due to the incitement from the *Communist Party of Malaya* (PKM). PKM opposed the 1948 Federal Agreement, contending that the stringent citizenship conditions were unsatisfactory and advocating for lenient citizenship rights for non-Malays with equal rights with the Malays. PKM implemented a guerrilla and armed resistance campaign to gain power (Ramli, 2015). This period witnessed the emergence of inter-ethnic tensions primarily because the majority of PKM supporters were Chinese. Meanwhile, almost all members of the security forces were British and the Commonwealth armed forces were assigned to assist the predominantly Malay Malayan Police (Comber, 2013).

Negotiations and Independence of the Federation of Malaya

In April 1949, the British colonialists were involved in the establishment of the *Communities Liaison Committee* (CLC) involving representatives from various ethnic groups that aimed to preserve understanding and increase harmony and goodwill. Through the establishment of the CLC, the non-Malay leaders insisted that the principle of *jus soli* citizenship that was once proposed through the idea of the Malayan Union be re-established. The British strategically employed the establishment of the CLC to neutralise the opposition of the Malays regarding the issue of citizenship by leveraging on the fear factor among the Malays on the possibility of the PKM carrying out a coup. However, such possibility could be curbed if the British took action to resolve the citizenship issue to reduce the Chinese support for the PKM by using the same promise of equal political rights and citizenship to all.

Although the *United Malays National Organization* (UMNO) resisted at first, but based on those reasons, UMNO's main leaders agreed to the demand to liberalise provisions related to the citizenship policy. In this regard, UMNO consented with the relaxation of conditions for a shorter period of stay and basic knowledge of the Malay language. Further through the CLC Committee Meeting in December 1949, the CLC Committee members unanimously accepted the principle of *jus soli* in the matter of granting citizenship to the non-Malays (Ramli, 2015). UMNO's decision to support the *jus soli* policy was opposed by several other Malay-based parties such as *Pan-Malaya Islamic Party* or PAS (Adam, 2009). This is because the Malays did not want to suffer the same fate as the Arabs in Palestine or the Red Indians in the United States who were drowned by a larger immigrant population (Sopiee, 1974).

In addition to the citizenship issue, the CLC meeting also discussed the position of the Malays in the country and agreed that the Malays should have a special position since Malaya are both the *de facto* and the *de jure* homeland for the peninsular Malays (Ibrahim, 2004). But they also stated that the principle of the special position of the Malays cannot overcome the importance of forming a just and equitable society. This is because all citizens of the federation according to the CLC proposal will enjoy the equal status, priority and opportunities in the federation regardless of their ethnicity. However, the CLC was later abolished around 1951 amidst the crisis between Onn Jaafar who led UMNO and his party members following the proposal to open the membership of the party to non-Malays, aligning with the proposal of citizenship to non-Malays based on the principles of *jus soli*. Although its lifespan was brief, CLC provided an idea for further discussion and cooperation between different ethnic groups in Malaya (Ho, 2016).

In the 1955 General Election (GE), UMNO and the *Malayan Chinese Association* (MCA) formed an alliance (the Alliance Party or *Parti Perikatan*) and reaching a significant compromise. The Malays agreed that citizenship would be given to qualified Chinese, and in return, the Chinese agreed to recognise the special position of the Malays, the Malay language as the national language and Malay rulers as the constitutional monarch. The agreement was later extended to the Indians through the *Malayan Indian Congress* (MIC) and was officially documented in the Alliance's manifesto for the election (Ramli, 2015).

During the 1955 GE, the Malays constituted the majority of voters, comprising 84.2 per cent of the electorate, while Chinese voters only accounted for 11.2 per cent and Indian voters for 4.6 per cent. The Chinese-majority seats were only available in two areas while there were 37 voting areas where more than 75 per cent of the voters were Malay. However, extraordinary tolerance was shown by the Malays when the Alliance Party nominated 17 non-Malay candidates while other parties nominated 9 non-Malay candidates (Ibrahim, 2004). In the election, the Alliance Party won 51 seats while the remaining one seat was won by PAS.

Following the triumph in the 1955 GE, the Alliance Party urged the British to grant independence to Malaya. In response, the British then formed an independent commission, commonly known as the Reid Commission, to draft a proposed constitution for Malaya. This commission was chaired by Lord Reid from Britain while the other four members were appointed from Canada, Australia, India and Pakistan. The decision that the members of the commission should be appointed among outsiders was made by the Alliance Party in line with the 1955 GE manifesto, emphasising the need for independence from any local prejudices to ensure fair and equitable execution of duties (Fernando, 2007). All nominations underwent approval from the Malay Rulers first before the appointment can be confirmed (Fernando, 2019).

The Reid Commission was established in March 1956 and held 118 meetings between June and October 1956 (Abdul Hamid et al., 2018). The Reid Commission received a total of 131 memoranda from individuals and organisations representing various groups. Nevertheless, the Alliance's memorandum was given primary attention by the Reid Commission considering that they won the 1955 GE. Thus, the compromise for communal issues that was agreed at the Alliance Party level was considered to represent the views of the majority of the population in Malaya, with each main ethnic groups represented by UMNO, MCA and MIC (Ramli, 2015).

The Reid Commission then issued its report on February 21, 1957, and was submitted for evaluation by a working party. However, not all proposals by the Reid Commission were fully accepted, leading to modifications in the final Federal Constitution compared to the original draft (Bari, 2001). After almost five months of political consultation and compromises, almost 40 per cent of the content of the Reid Commission's report was amended, covering several key matters related to citizenship, the official language, the special position of the Malays, and the federal religion (Khor, 2020).

In relation to citizenship rights, almost all of the Reid Commission's recommendations were agreed upon, but the conditions were tightened. The approval of naturalisation was subject to the approval of the ministry compared to the five-year residence period as requested by the Chinese associations. As for language, the provisions that allow Chinese and Tamil languages to be used in the legislature for the first 10 years of independence have been dropped. In addition, the proposed 15-year time limit for the special position of the Malays was also dropped. Islam was decided as the federal religion and the *Yang di-Pertuan Agong* became the head of Islam in Malacca and Penang.

Fundamentally, the amendments reverted the constitution draft to the 1948 Malayan Federation Agreement through the affirmation of the three pillars of Malayness, namely, the Malay language, Islam and the institution of the Malay rulers with an addition to the special position of the Malays (Khor, 2020). The proposed white paper for the constitution of the Federation of Malaya was then debated in the Federal Legislative Assembly on 10 to 11 July 1957. The Chief Minister of Malaya, Tunku Abdul Rahman, reminded that the constitution would not be able to satisfy all parties. However, the Malays were ready to make sacrifices for the sake of independence, therefore, the non-Malays who wanted to make Malaya their

homeland must also cooperate fully. The proposed draft constitution was finally approved unanimously on 11 July 1957, reflecting the agreement and tolerance between the Malays and the non-Malays (Ramli, 2015).

When the country's independence was achieved on 31 August 1957, the Malay rulers issued a royal decree bequeathing seven key elements, including the name of the country which is the Federation of Malaya, the Malay reserve land, the royal Malay regiment, the sovereignty of the Malay rulers, Islam as the religion of the federation, the national language which is the Malay language and the special position of the Malays (Department of Information, 2013). The decree was then incorporated into the Federal Constitution. Although the traditional elements, according to the will of the Malay rulers, are based on the interest of the Malays as natives, the matter was balanced with other provisions in the Federal Constitution to ensure that the interests of the non-Malay community will not be affected (Ibrahim, 2004).

In this regard, Hashim (2007) stated that the provision that establishes Islam as the religion of the Federation was balanced with the provision that gives freedom to non-Muslims to profess and practice their religion peacefully and harmoniously. Likewise, the position of the Malay language as the national language was balanced by provisions that stipulate that no one can be prohibited from using, teaching or learning any other languages apart from official purposes. In relation to the special position of the natives, Muslim (2020) stated that the matter was balanced with provisions stating that the government cannot deprive, withdraw or cause the rights of other ethnic groups to be eroded. Thus Faruqi (2008) concluded that the Federal Constitution was brought to life in the spirit of moderation, compassion and compromise.

The compromise made in the matter of citizenship in pursuit of independence came at a high price for the Malays. This relaxation of citizenship through the *jus soli* policy resulted in almost one million non-Malays being accepted as citizens (Ibrahim, 2004). Consequently, the position of the Malays, once the majority with significant voting power, experienced a drastic decline in their position. For example, the ratio of the number of Malay voters in the 1959 GE plummeted to only 56.8 per cent, while Chinese voters increased to 35.6 per cent and Indian voters also increased to 7.4 per cent (Means, 1976). In comparison, Tay (2018) stated that other regional countries, such as Brunei or Myanmar, will never grant citizenship arbitrarily to community groups considered foreigners or immigrants.

Since granting citizenship rights was a great sacrifice made by the Malays, there are times when the Malays will raise the matter again in the face of disputes or challenges on traditional elements enshrined in the Federal Constitution. In reaction, some Malays insist on revoking citizenship rights through Article 25 of the Federal Constitution. According to Ramli (2015), the government has indeed invoked this provision in several cases. Among them was the stripping of the citizenship status of Lim Lian Geok, a Chinese language and vernacular school activist and President of *Jiao Zong* in 1961 on the grounds of disputing the position of the Malays. Similarly, C.C. Yong, a former secretary of the People's Party and a former Member of the Johor State Assembly, faced citizenship revocation in 1968.

Results

Based on the historical narrative as provided above, the Malaysian state of nature, as outlined by the Malaysian social contract, emerged notably during the post-colonial era, commencing with the interregnum period after the Second World War. During this period, each ethnic groups in Malaya tried accommodating their new lives in the post-war conditions. However, equality between men in the state of nature, as stated in the classical social contract theories, is quite different in the Malaysian context since the Malayan population at that time was divided between two major groups with different statuses, namely the natives who were the Malay ruler's subjects, and the immigrants. Therefore, the Malays as natives held more weightage compared to the immigrants. Every ethnic groups in Malaya then had to negotiate with each other to form a united Malayan society to ensure that their welfare and interests were protected.

In this case, Tay (2018), posits that social contract, according to the Malaysian understanding, are between ethnic groups and not between individuals and the state. However, Wan Husain (2018a) argues against the emphasis on the social contract in Malaysia, which focuses too much on compromises between ethnic groups. This may create an impression that without consent from the non-Malays to preserve the traditional

elements, the country's independence will not be obtained from the British. On the other hand, he emphasised that the matter should be interpreted according to the understanding of the local wisdom. Thus, the negotiation of the drafting of the Federal Constitution was made to strengthen the institution of the constitutional monarchy to adapt to the parliamentary democratic system without marginalising all existing traditional elements (Wan Husain, 2018b).

Therefore, it can be concluded that the Malaysian social contract formed extends beyond consensus between different ethnic groups, where it also involves agreement between the people as a whole and the Malay rulers towards an independence of the Federation of Malaya. The reason is that the Federal Constitution was not blindly enacted solely based on the feedback and recommendations from various communities collected by the Reid Commission. Instead, the existence of the sovereign Malay Rulers, considered as the protector of the Malays, allowed the Reid Commission's report to be amended so that matters related to the pillar of Malayness are reaffirmed and strengthened in the Federal Constitution.

According to Shad Saleem (2021), the government's power to govern is dependent on adherence to the social contract between the government and the governed. In this matter, the traditional elements, which are an integral part of the Malaysian social contract, clearly serve as the adherence factor for the Malays by safeguarding their interest. In contrast, the balancing elements act as the adherence factor for the non-Malays, ensuring that their interests are not being side-lined too. Therefore, the traditional elements coupled with its balancing provisions enshrined in the Federal Constitution are a win-win situation for both the Malays and non-Malays to adhere to the social contract.

Conclusions

Although there are disputes about the existence of social contract in Malaysia, arguing that the matter has never been recorded in any document to form a valid contract (Puthuchery, 2008), Faruqi (2012) explains that, indeed, the word social contract does not exist in the Federal Constitution. The same goes for words like democracy, rule of law or separation of powers. However, the absence of those words does not deny the existence of relevant principles in the Federal Constitution. Therefore, he stated that denying the social contract means denying the inter-ethnic agreement reached during the negotiation for the country's independence. Thus, the term social contract was actually used as a translation of understanding and agreement among the three major ethnic groups during the establishment of the Federation of Malaya, eventually enshrined in the Federal Constitution (Yaakop & A. Aziz, 2014).

The chronology of events presented demonstrates that the compromise and agreement reached between different ethnic groups in relation to traditional elements and citizenship have been recorded in various forms of documents, including election campaign manifestos and white papers of the commission report. Since the Alliance secured the mandate and strong backing of the people in a landslide victory in the 1955 GE, the political leaders of the Alliance at the time had the right to assert that they spoke for their respective ethnic groups (Harding, 2012a). Thus Bari (2010) concluded that the social contract does not exist as an ordinary agreement, but it was the plausible explanation for certain clauses seen as undemocratic in the Federal Constitution.

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